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INTERNATIONAL CONFLICTS

Peru against Colombia, Ecuador and Chile.

by

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Cuando te sucediere juzgar algún
pleito de algún tu enemigo, aparta
las mentes de tu injuria y ponlos
en la verdad del caso.—CERVANTES.—
Consejos de Don Quijote a Sancho.
(When thou hast to pass judgement
on a suit of thy enemy, put by from
thy mind thine injury and think on
the truth of the case).



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PREFACE

The attitude of Colombia in the Chile-Peruvian conflict.—Peru tries in vain to get support from Chile against Colombia.—The reason of this book.

When by the end of 1918 took place one of the periodical outbursts of the peruvian national sentiment with which the unruly and noisy brother people enlivens political fights, renews their impotent hatred against Chile; puts forward the soul stirring film of «the captives» and calls the attention of all the world to the probability of an armed conflict with Chile, Bogotá (1) saw an imposing demonstration of popular sentiment in favor of Chile, as a proof of love

(1) In the important ecuadorian town of Cuenca took place also on the 22th December a big demonstration of sympathy to Chile and against Perú.

and support of the justice of its cause, demonstration that a few days later was answered by one in honor of Colombia held in Santiago de Chile.

This attitude of the Colombian people, that always has given proof of high and sincere sentiments of fraternity in his relations with american republics, has caused some sentiment of wonder in the rest of America and even a newspaper (Argentine) published some strong criticism on this. The fact that on the expectation of a conflict, Colombia sides with one of the contenders, without doubt shows she has no brotherly love for the other.

Unfortunately this is the truth, not by cause of Colombia but against her spirit, as Peru in her relations with Colombia and Ecuador, has shown that she does not wish to maintain either the faith or the nobleness and fraternity that should reign among countries that have one origin and equal destinies. This is the reason why I have thought useful to give to the american public, details of the causes which force the colombian people to decidedly support Chi-

le in the Chile-Peruvian conflict, as yesterday in the dispute between Ecuador and Peru, she was on the side of the former and if to morrow—a thing not impossible given the ambitions of the country of Pizarro—there is a conflict between Peru and Bolivia, Colombia decidedly and loyally would be on the side of Bolivia, because Chile, Ecuador and Bolivia are countries united to Colombia by ties of true friendship, that become stronger every day, while Peru from a century back invades, all protests notwithstanding, immense extensions of territory that belongs to Colombia and Ecuador.

The Colombian people, that has a high and honorable tradition as a haughty and warlike nation, whose diplomacy was up to thirty years ago one of the most respected of America, is proud of the honor of having been the first to proclaim in the continent the union and fraternity of brotherly Republics, and of having put the principle in practice in her international relations. There is only one exception, only one unruly brother, Peru, with whom it has been impossi-

ble to maintain sincere friendship, by reason that Peru—even not being a strong and soldierly country—has always been the quarrelsome bravo of South America, and has fights and suits with all her neighbors: with Ecuador, with Colombia, with Chile, with Bolivia and with Brazil.

Peru is the south american country that has originated more international wars. She has fought with Colombia (1829); with Bolivia (1828 1835, and 1841), with Chile (1879) and every time has been defeated.

But all this would not be enough to provoke such attitude from Colombia, if there was not something higher: the conviction that justice and reason are on the side of Chile in her quarrel with Peru. An impartial and serene consideration of the origin and development of the quarrel between Chile and Peru, convinces one that justice is fully with Chile. If this has not been sufficiently recognized elsewhere as in Colombia, it is mainly due to the indefatigable peruvian propaganda that has shown the world the side of the question most advantageous to her interests and, as fre-

quently happens, for want of proper consideration of the matter, reason is given to the one that shouts the most.

Moreover, to form an unbiassed opinion on a controversy, it is necessary to know the antecedents of both parties, their aggressiveness, their relations with their neighbors, the value of their promises and the way in which they have fulfilled their pledges. Nowhere in America, better than in Colombia and Ecuador is the attitude of Chile and Peru so well known in their relations with the other countries of the continent.

Public opinion in american countries that have had no controversies or wars with Peru, not being her neighbors, has heard up to late times, only the crying complaints of Peru that represents herself as a victim; but to form accurate judgment the other side must be heard, as in the words of a prominent columbian judge: «Who ever judges a case without hearing both sides, even sentencing right has unjustly sentenced».

This work is aimed to demonstrate with historical documents and with clear and fair

arguments that Peru, who is thought in certain countries of South America the victim of Chile, has grasped and keeps against all right, wide and rich territories that rightfully belong to Colombia and Ecuador. That in the face of the audacity of her ambition of domination and grasping expansion all protests and conventions are useless, as she accepts them, only to break them and that no other check is possible to her ambition than force based on the right; and that if the Colombian people as a whole has sided with Chile in the present conflict, it is because they know that Peru has no justified basis for her claims.

This book will be a summary of the long suit maintained by Colombia and Ecuador to reinvigorate their immense and wealthy territories now in the hands of Peru; of the present relations between these countries and a fair if brief study of the Tacna and Arica question.

Perú that in 1828 «anxiously but uselessly asked help from Chile to declare war to Colombia; that in 1840 asked his alliance to invade Bolivia and in 1864 begged for

the same thing against Ecuador» (1) can be sure that the Governments of Colombia and Ecuador will not follow such example and will not go after alliance and help, to force her to execute what has been stipulated and that they will maintain, as they have hitherto done the strictest neutrality in face of her conflict with Chile. But she cannot be surprised that the peoples of Colombia and Ecuador, that always keep alive the love of their countries, make public, as occasion arises, their love and admiration for Chile and their indignant protest against Peru, that invades and grasps territories that are their sacred inheritance.

As an echo of such a demonstration from the Colombian people and as an adhesion to it, is dedicated this book, written *calamo corrente* with the impartiality obtained by following the advise of wise Don Quijote to Sancho: «When thou hast to pass judgment on a suit of thy enemy, put by from thy mind thine injury and think on the truth of the case».

(1) ADOLFO CALDERÓN COUSIÑO. *La Cuestión Chilena*, 1919, page 193.

Peru against Great Colombia
(1822-1830).

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Peru against Great Colombia

(1822-1830)

Summary: Territory of the Republic of Colombia.—The Royal Cedula of 1739.—Royal Cedula of 1740 establishing the boundaries of both Virreynatos.—Territorial division Law of 1824.—First protest of Colombia (1822) in view of pretended usurpation.—Peru is intimidated and desists.—The *uti possidetis de jure* of 1810.—Colombia liberates Peru.—The Congress of Lima recognizes and expresses gratitude.—Peru provokes a war to Colombia, invading her.—Peru routed in the battle of Tarqui.—Sucre's magnanimity.—The Giron convention.—Guayaquil treaty.—Mosquera-Pedemonte agreement.—Peru does not fulfill her obligations.—The only title alleged by Peru, the Cedula of 1802 has no juridical value.—Magnitude of the spoliation.

What to-day are the Republics of Colombia, Ecuador and Venezuela, formed from 1810, when the independence movement began, up to 1830, the Republic of Colombia, whose territory, according to the Article 5th of the Fundamental Law, drawn up in Angostura in 1819, was «included wi-

thin the limits of the old Capitanía General of Venezuela and of the Virreinato and Capitanía General of the New Kingdom of Granada, covering an extension of 1159 square leagues, whose exact limits will be fixed in a better opportunity».

The first Constitution of the Republic of Colombia, drawn up on the 30th August 1819, states the same about territorial dominion.

The Constitution of Cúcuta on the 6th October 1821, provides:

«Art. 6.—The territory of Colombia is the same that formed the old kingdom of New Granada and the General Captaincy of Venezuela.

«Art. 7.—The peoples within this boundaries that as yet are under the spanish rule, on obtaining their liberty, will form part of the Republic, with equal rights and representation with the rest thereof».

The territory referred to by these two constitutional acts and that embraced the Vice-Kingdom of New Granada and the General Captaincy of Venezuela, are clearly and perfectly delimited by the Royal

«Cedula» (Letter) of 1739, given by the Sovereign on the 20 th August of that year, in San Ildefonso and in conformity with the Royal Letter of 1563 that created the Quito Presidency and that of 1717 that created the Kingdom of Santa Fe.

The Royal grant of 1739 in its pertinent part says to the letter:

«I have considered good and decided to restablish the Vice-Kingdom of the New Kingdom of Granada and appointed to it Lieutenant General don Sebastian Eslava... to be jointly President of my Royal Audience of the town of Santa Fe in the named New Kingdom of Granada and Governor and Captain General of it and of the Provinces to it attached, that are the one of Quito with the territory of its General Captaincy and Audience, that is to say that of Popayán and Guayaquil, that of Portobello... with all towns, villages and boroughs, and the ports, bays, harbors and the rest to them pertaining in both seas and inland, said Audience of Quito and the one of Panamá belonging and remaining as they are, with the same subordination and dependen-

ce to this Viceroy, that other subordinate have in the Viceroyships of Peru and Mexico with respect to their respective Viceroys: having moreover resolved that there will be three General Commanders that, though subjected to the above referred Viceroy of Santa Fe, will have superiority as regards others, the Governor of Panamá being the one I appoint as General Commander of Portobelo, Darien, Veragua and Guayaquil...»

This document was exhibited by don Pedro Gual, Colombian Plenipotentiary during the conferences of the 1829 Treaty, to fix the limits in accordance with *those of the old Virreynatos*. This document was received without the least objection from the part of the Peruvian Plenipotentiary.

As it will be seen by this Royal Letter the spanish sovereign expressly included in the civil jurisdiction of the New Kingdom of Granada the district of the Province of Quito, that according to the then existing colonial territorial division was politically called the Presidency of Quito, erected and delimitedated by Royal «Cédula» (Letter) gran-

ted by Philip the Second on the 29th November 1563, whose territories were delimited as follows:

«And let her have as district the province of Quito, and by the coast in the direction of the town of the Reyes (Lima) to the port of Paíta exclusive; and inland to Piura, Cajamarca, Chachapoyas, Moyobamba and Motilones exclusive, *including* in the aforesaid parts the towns of *Jaen*. Valladolid, Loja, Zamora, Cuenca, la Zarza and Guayaquil, *with all other towns* that may be in their districts and come to be inhabited, and towards the towns of *la Canela and Quijos*, to have such towns, *with the rest that may be discovered*, and by the coast towards Panamá, up to the port of Buenaventura inclusive and inland to Pasto, Popayán, Cali, Buga, Chapanchica and Guarchicona; as the remaining towns of the Government of Popayán belong to the Audience of the New Kingdom of Granada with which and with Terra Firma she bounds on the north; and with that of the Reyes on the south, having the Southern Sea to the West and *to the*

Levant, provinces that as yet are neither pacified nor discovered».

In the year 1740 the final boundaries between the Vice Kingdoms of Perú and New Granada were clearly fixed by Royal Letter: «Starting from the Tumbes in the Pacific coast it follows (the boundary) along the mountains and cordilleras of the Andes in the districts of Paita and Piura up to the Marañón at 6 degrees 30 minutes of southern latitude and inland, leaving for Peru the jurisdiction of Piura, Cajamarca, Moyobamba and Motilones; and by the bank of the Jeberos, crossing the Ucayali river, at 6 degrees south until it reaches the Javari or Jaurí river in its junction with the Carpi; the waters of this last up to the Solimoes or Amazon and waters of this down to the westernmost mouth of the Caquetá or Yapurá, where the limits of Brazil have their start».

The law of territorial division that was enacted by the Congress of Colombia on the 25th June 1824 says:

«Art. 12.—The Department of Azuay includes the provinces of Cuenca with Cuenca

as its capital; of Loja, with its capital Loja; and of *Jaen de Bracamoros and Mainas with its capital Jaen*. The cantons of the Jaen and Mainas Province will have as capitals the towns of Jaen, Borja and Jeberos».

If Perú had the least right of dominion or property over any of the provinces enumerated in the Law enacted by the Colombian Congress, she would have made her protests heard very far; but «there is not a trace—says Dr. Rafael Uribe y Uribe, whose masterly speech in the Colombian Senate the 12th September 1912 should be considered on this question—that Perú protested or made any reservation whatever against this law being an act of dominion and jurisdiction of Colombia on Jaen and Mainas».

Dr. Honorato Vásquez in his *Memoria Histórico-Jurídica* page 101 says: «We have seen how since 1811, legislation took account of the territorial integrity of the Vice-Kingdom of Santa Fe, embracing the Presidency of Quito; how the Colombian Constitution treats this point; how the Law on territorial division of 1824 included Quijos

Mainas and Jaen among the departments of Ecuador and Azuay.

«In the meanwhile Perú, independent since 1821, never said a word on these constitutive acts of Colombia, and kept silent, until the last years of that country; the controversy about boundaries».

Not so Colombia that on the first usurpatory attempt on the part of Perú in 1822—who published a convocatory decree to elect a Constituent Assembly and tried to include the Provinces of Jaen, Quijos and Mainas under her jurisdiction—presented the strongest protest, voiced by the Colombian Minister at Lima don Joaquín Mosquera against such attempt «that once allowed to pass—said Sr. Mosquera—would be claimed later by Perú as a title of dominion on those regions».

Peru felt intimidated by the just representations of Colombia, and abandoned her intentions, and finally by an order of July 5th 1822, advised the Governor of Trujillo not to call to elections the populations of Jaen and Mainas.

Later on, in 1826, the Charge d’Affairs

of Colombia in Lima asked from the Minister of Perú «if the provinces of Jaen and Mainas were included or not in the convocatory decree for elections of deputies» receiving the following answer from the Minister: «the convocatory decree is limited to the peoples on the southern bank of the Marañon only», which means that Peruvian rule did not extend to the north of that river.



In the International Congress of Santiago de Chile in 1856, as well as in those of Panamá in 1862 and the one of Lima in 1864 «the high contracting parties (Colombia, Perú, Venezuela, Ecuador, Chile, Bolivia and Salvador) recognize as the base of their political and territorial division the principle of the *uti possidetis* of the year 1810».

In accordance with this principle of the *uti possidetis de jure* of 1810, proclaimed and accepted by the new Republics, all the Constitutions of Colombia up to 1886, have established that the limits with Peru are

the same that divided the old Virreinato of New Granada, as per the Royal Letter of 1739 from the Virreinato of Peru.

The article 3 of the 1886 Constitution says:

«The limits of the Republic are the same that in 1810 divided the Virreinato of New Granada from the General Captaincies of Venezuela and Guatemala, from the *Virreinato of Peru* and the portuguese possessions of Brazil; and provisionally, as refers to Ecuador, those fixed in the Treaty of July 9th, 1856».

The Legislative act N.º 3 of 1910 that replaced the article 3 of the Constitution of 1886 says: «The limits of the Republic with neighboring countries are... and with Peru, those fixed by the Mosquera-Pedemonte Convention as a sequence of the Treaty of September 22, 1829».

* * *

The history of this Treaty and this Convention, that are indisputable titles claimed by Colombia, must be remembered:

Peru not being capable of attaining li-

berty by her own efforts asked the help of Colombia by means of her commissioner don Mariano Portocarrero. The Liberator Bolívar generously acceded to this petition and went to Peru with six thousand seasoned soldiers of the Colombian army. With the battle of Ayacucho, commanded by General Antonio José de Sucre, venezuelian, and that was decided by Lieut. General José María Córdoba, colombian, with his famous order «*arms at will and step as victors*», the Liberator Bolívar sealed the independence of Peru.

The Congress of Lima by law of February 10th, 1825, expressed its gratitude in the following terms:

«In high recognition of the eminent services given by the Republic of Colombia to Peru, and without which, the last would have without doubt succumbed to the spanish power,

IT IS HERE RESOLVED

1st. That a vote of thankss be given to the Republic of Colombia for the ser-

vices rendered to her ally and Confederate the Republic of Perú.

2d. That these expressions be transmitted to the Government of Colombia by means of the Commission sent by Congress to that country, for the other purposes that have been approved».

Nice words, that barely pronounced, were strangled by acts openly hostile to Colombia, that gave rise to a war three years after.

This war was provoked by Peru as an answer to the protests of Colombia asking for the *restitution of the Province of Jaen and part of that of Mainas that are colombian without any doubt* and whose retention by Peru «must be called an usurpation and a seed ground of future wars» (Communication of February 16th, 1828, addressed by the Minister of Colombia Sr. Revenga to the peruvian Plenipotentiary Sr. Villa). The peace mission sent by the Liberator to Lima to avoid such war was useless; and after this Peru blockaded Guayaquil and invaded Colombia, to end in the memorable battle of Tarqui, February 27, 1829, where

«the peruvian army of eight thousand men, that invaded the land of her liberators was routed by four thousand valiants of Colombia» as says Marshal Sucre in his report of the battle.

That war was started by Peru and «raised only and essentially, to pander to private hatreds and vengeance, depriving by force from a friendly and sisterly republic, the best cherished portion of her possessions exposing our country (Peru) to be a prize of foreign spoliation» (words that can be read in the Message that general Gutiérrez de la Fuente, President of Peru, sent to Congress on August 31, 1829) and was described by the peruvian general Gamarra in a letter addressed to the Liberator, as a «horrid war started under the influence of the innoble passions of a very few men», a «mad and criminal struggle».

Magnanimous Marshal Sucre, that after his victory could have taken his army to Lima to fix in the peruvian capital the conditions of peace, starting from the restitution of Jaen and Mainas, cause of the

conflict, (1). went so far in his generosity with the conquered that he caused the Giron Convention to be signed on the field of battle on February 28, by Generals O'Leary and Flores for Colombia and General Orbegoso for Peru, convention that in one of its clauses, the 9 th, says:

«As Colombia cannot accept the signing of a Peace Treaty while the enemy is still in occupation of national ground, it is agreed that once these bases are laid down, the remnant of the peruvian army will retire to the south of the Macará and final conferences will be initiated, for which two plenipotentiaries will be appointed by each party, that will gather together in the city of Guayaquil, during the whole of the month of May».

This Convention was barely signed by

(1) The ultimatum sent by Colombia to Peru on March 3, 1828 says: «If within six months from this date, the provinces of Jaen and part of the Province of Mainas that you keep, are not put under the orders of the Governor of Azuay... the Government of Colombia will believe, not only that Peru hostilizes it, *but that she has left the decision of justice to the chance of arms*».

defeated Peru, being in fact a surrender, when she tried to violate it: she refused to deliver Guayaquil, imprisoned the colombian plenipotentiary that went to that city and started discussion on the signed Convention. Colombia had need of a very energetic attitude to obtain that, in fulfillment of the article 9 of the Giron Convention, the Treaty of Guayaquil were signed, as it was done on September 22, 1829, by the plenipotentiaries of Colombia don Pedro Gual and of Peru don José de Larrea y Loredo.

In the Treaty as well as in the minutes of the conferences of the plenipotentiaries, that the Congress of Peru had on sight before giving its legislative approval to the Treaty, to «clear any doubtful point», and that consequently are incorporated proof in the matter, it was decided:

1) That the respective territories would be «those that before their independence had the *old* Vice Kingdoms of New Granada and Peru»; for which, account was taken of the map published by the spanish government at the beginning of the XIX century.

This means that all value was denied by implication to the Letter of 1802 that Peru alleges to-day as her title;

Moreover, during the conferences of the treaty of 1829 in Guayaquil, the Peruvian representative Sr. Larrea y Loredó admitted as the boundary line between both Vice Kingdoms the one fixed by the Royal Letters of 1739 and 1563 and had good care not to mention as a title of possession the Letter of 1802; suggesting rather in the third conference that «as the operations of the Commissioners ought to start from the established fact that the boundary line for the two nations was the same that was fixed at the time when they had the names of Virreynatos of Lima and New Granada, before their independence, they could start from the Tumbes river, tracing a diagonal line to the Chinchipe and following the current of this up to the Marañón, this last being the most natural and marked of boundaries between the territories of both countries and the same fixed by all the modern and ancient geographical charts».

2) That the Commission to be appointed

by both Governments, to fix the boundary line, in conformity with the article 5, should be reunited forty days after the signing of the Treaty and its work finished six months after and would fix the line in question «starting from the Tumbes river in the Pacific Ocean», would take from the mouth of the Tumbes «a diagonal line up to the Chinchipe and follow this to the Marañon and follow this last until the limits with Brazil».

This Treaty was ratified by both parties and exchange of authorized copies made, and was published as law by Peru on October 26, 1829. And even now it has not been fulfilled by Peru, who has not returned the provinces of Jaen and Mainas, cause of the war with Colombia and that the latter reclaimed with the victory of Tarqui and by the mentioned Treaty «that finished the war in a permanent and honorable form for the dignity of Peru» as expressed by the peruvian Congress.

Do you know what Peru alleges against the Treaty of Guayaquil? It would be matter for wonder, if it was not publicly known already that Peru is never short of reasons,

be they extravagant and unsuitable, to elude the realization of the pacts and treaties she has signed. She claims that the Treaty was signed with the first Colombian Republic, that was a different entity from Colombia, Ecuador and Venezuela that replaced her, and none of which has a right to claim that treaty in their favor.

This strange argumentation, that converts Peru in the sucesor of the Great Colombia and that the eminent spanish lawyer don Antonio Maura has called a «vain mixture of gowned metaphors among which there is not one idea that can be called exact», is not worth refutation. It is the equal of the allegations of certain peruvian writers and diplomatists that declare that the Ancon Treaty is null because the referendum mentioned in the Clause III has not taken place; the fact being that the non execution of this clause has been originated by Peru, who has maintained that there should be no real referendum but an election among peruvians.

The special argumentation of the peruvian diplomacy in her discussions makes

her some times to accept the validity of the Treaty of 1829, basing herself in its conferences and clauses, and at other times to allege the invalidation of the same. Dr. Honorato Vásquez, in his «Historical-Juridical treatise on ecuadorian-peruvian boundaries», says:

«Peru in her allegation takes hold of the fact that Ecuador thinks that the Treaty of 1829 fixed the question of limits, and tries to prove that *that Treaty being in force*, what therein is set forth is only the general point of start of the boundary demarcation of the Vice Kingdoms, and makes eager efforts to prove that there was no specified geographical designation of the line of the boundary».

.....
«It would be against the most elemental notions of justice to believe that the passing of time, the allegations of an adverse party that avoids the aims of a contract, or any other means against the good faith of a compact would end the subsistence of an obligation in the being and juridical character it had when it was contracted».

Vergé in his commentaries on Martens, says:

«According to the regulations of international law, as well as according to civil law, the engagements resulting from international agreements are valid as long as they are not fulfilled, and none of the parties can waive the obligations assumed... The effect of this pledge does not only cover what has been stipulated in words; it embraces all that is in conformity with its substance and all that is contained in the intention of the contracting parties».

And D. José Canalejas y Méndez, President of the Council of Ministers of Spain, Dean of the Lawyers Association of Madrid and President of the Royal Academy of Jurisprudence and Legislation, in his *Opinion on the Limits between the Republics of Ecuador and Peru*, says:

«Peruvian defense at this critical moment (1888) could not consist but in the maintenance of the caducity of the Treaty claimed by Ecuador, and so she alleged that caducity; but where is the foundation of such assertion? What definite fact, what

sequence of notorious facts or what documents have produced the juridical invalidation of that Treaty?

«The reference to any act preceding the date of the Treaty of 1829 not being possible, as by example the Royal Cedula of 1802 that makes no allusion to Jaen, nor Macas, nor Mocoa; the caducity of the Treaty of 1829 had to be alleged, *avoiding the discussion on right, full of difficulties and breakers, to go into the field of discussions, compromises and compensations. And the first thing to do was to get an arbitrator that would serve as respite and that is what was done*».



In accordance to the clause VI of the Treaty of Guayaquil, Colombia appointed the Commissioners to fix the boundary line, who went to the field of work but did not find the peruvian commission. She appointed as Plenipotentiary in Lima General Tomás Cipriano de Mosquera who together with the peruvian Plenipotentiary don Car-

los Pedemonte, agreed on August 11, 1830, the Convention that bears their names and whose authenticity cannot be disputed, as its whole context was included, as an annexed document, under N.º 54, in the *Private report of the Foreign Relations Minister of Peru, don Alberto Elmore, to Congress in 1891*, and moreover the «Special Boundary Commission of Peru» formed by the peruvians that best knew these questions, in the «Memorandum» in which she answers the queries put by the Foreign Minister to prepare the defense of Peru before the Arbitrator in the controversy with Ecuador, says as follows:

«Next came in 1830 the *Pedemonte-Mosquera Convention*, in which the peruvian plenipotentiary put forward the existence of the Royal Letter of 1802, and nevertheless agreed to accept the same line of the *Marañón*, establishing a divergency only in the limits of the *Jaen region*» (1).

(1) «The authenticity of this convention is absolutely indisputable. The copy presented by Ecuador to the Royal Arbitrator is authorized by the Foreign Minister of Colombia and by the Spanish Legation in Bo-

And yet Peru maintains that this Convention never existed!!!

The line fixed by this Convention as a boundary is the following: «from the mouth of the Yaraví on the Marañon; following this latter up to the mouth of the Huanca-bamba; this later river to its origin in the cordilleras; from there a line to the Macará to follow it until the current of the Tumbes is joined and with this to the Pacific».

«In this way—says the same Convention—the limit question was finished»... «giving from now as ascertained the perfect right of Colombia over all the territories on the left bank of the Marañon or Amazon» and recognizing to Peru the dominion of the right bank.

This was a finished affair!

So it was hoped then, because it was thought that Peru had signed these pacts

gotá. Moreover the peruvian diplomatist and the Special Boundary Commission of Peru allways held taht this document was authentic being included in the «Secret Report» of the Foreign Minister Dr. don Alberto Elmore to the Congress of 1891.—N. Clemente Ponce in his *Memorandum for the Foreign Minister of Bolivia* page 107.

in good faith and that no other victory was needed to enforce its fulfillment. And yet, to-day, at the end of 89 years, we are demanding in a peaceful and courteous way from the «sister» republic, not only what was decided by the battle of Tarqui and the Treaties that followed, but the territories that since then she has gone on grasping from Ecuador and Colombia!

* * *

The only title that Peru alleges to invade and encroach on the territories that belong to Colombia and Ecuador, and with which she tries to give honest appearance to her imperialist attitude, is the Royal «Cédula» (Letter) of 1802, copy of which was found in Moyobamba in 1818 and that she blasons as a flag of conquest.

It would be too long for this study to enumerate and express the mass of logical arguments, of irrefutable proof and documents that Colombia and Ecuador, and the writers of both countries, have used to demonstrate, as they have proved:

1st. That the Letter of 1802 does not refer to territorial division but only to religious and military administration;

2d. That the Letter of 1802 does not constitute a true and reliable title of territorial jurisdiction, not giving any right to Perú for holding the territories that belonged to the old province of Mainas, and less still to grasp those that extend to the east of the Huancabamba river and to the west of the Morona, not even named in that Letter; nor to retain some of the northern towns and pretend sovereign dominion on the region to the east of the Morona and west of the Yapurá rivers, only because that Letter decides to extend a *Military Command* over the rivers Morona, Pastaza, Napo, Putumayo and Yapurá, without fixed delimitation;

3rd. That a common Sovereign can fix administrative functions to a subject authority outside the territorial limits of the jurisdiction of the same, without modifying or altering the territorial division of the various districts; and that is why the Spanish sovereign gave the Military command

of the missions of Mainas and of the northern regions of the Amazon, by Royal Letter of July 15, 1802, to the Virreynato of Perú, without meaning that these regions cease to belong to the Virreynato of New Granada (1).

4th. That the Cedula of 1802 does not annul nor reforms either explicitly or by implication the territorial division clearly and rigorously fixed by the Royal Cedula of 1739 nor could it so annul it, as provided in the 12th law of the II Book of the «Recopilación de Indias» (2).

(1) The prominent peruvian internationalist Dr. Carlos Wiese says on this: «Distinction must be made between the Royal Letters of final demarcation properly so called, from the ones that take from a Virreinato or General Captaincy the political government, the administration, the military defense or similar attributes. That is to say that the King of Spain made the union of certain provinces a real fact whereas others were united only under personal rule» (Compilation of Treaties of Aranda Vol I page XIX).

(2) Don Miguel Luis Amunátegui as quoted by Dr. N. Clemente Ponce in his MEMORANDUM says: «Under the colonial system Mexico, Venezuela, New Granada, Peru, Chile and Buenos Aires were provinces subject to the same sovereign that had control over them as

5th. That the mentioned Cedula of 1802 was *suplicada* (begged off) or objected by the Virrey of Santa Fé and by the President of Quito and there is no trace of the Letter being confirmed. Rather in 1816 in a publication by order of the Virrey Sámano, and made by Dr. Antonio José de la Guardia, Jaen, Mainas and Quijos figured among the dominions of New Granada, a thing he could not have done if these territories had been given over to the Virreynato of Peru.

6th. In the «Guía de Forasteros de España» (Foreigners Guide of Spain), official publication made in Madrid and whose data are irrefutable as they were given out by the royal departments, the district of Mainas figures among the possessions of the Vice Kingdom of New Granada in the editions of 1822, 1823 as well

absolute master. The Virrey of La Plata was as much his subject as the Governor of Chile. Consequently there was nothing to hinder him to order the first or the second to exert authority in the territory of the other. But this did not mean a change in the territorial demarcations marked by fixed laws on the maps of his dominions».

as in that of 1828. And at the same time in the ecclesiastic hierarchy the bishop of Mainas appears as sufragan bishop to the Archbishop of Lima.

7th. That before the Letter of 1802 was put in practice in the matters religious and military to which it solely referred the revolution against the mother country broke out and the war of independence started, reason by which the authority of the Spanish government was waived aside, and from the orders emanated from the Spanish Government on territorial division, only those were maintained that, like the Royal Letters of 1739 and 1740, were clearly and necessarily a demarcation of limits.

Moreover, giving to the Letter of 1802 any value whatever, all discussion on its validity was finished by the sentence without appeal, given in judgment—*the judgment of God*—to which Peru recurred and in which she was defeated. (1).

(1) «Peru had not enough with the revolution of 1809, the constitutional acts of Colombia, the protests that were made against its claims on colombian terri-

The Treaty of Guayaquil signed by Peru shows in the clearest of lights that the sentence was confirmed. Colombia and Ecuador, certain of their right are still waiting to see it executed. And it is to be hoped that Peru, getting inspiration from the light shed by the triumph of justice and right over brutal strength, will appoint the boundary Commission that in cooperation with those that Colombia and Ecuador would designate, will fix the frontier-line, reciprocally making «those *small territorial cessions* that will help to make the dividing line more natural, exact and capable of avoiding rivalries of authorities and inhabitants of the frontiers» as it is provided in the V article of the same Treaty.

tories: she was not satisfied with having the arms of Colombia sealing in blood on the field of Tarqui the invalidation of any title she may have had, even if that was the Letter of 1802, and after the Treaty of 1829, after agreeing on peace she goes on believing that such Letter may be valid when it was destroyed as any other such title by the victory of Colombia». Honorato Vasquez. Memoria Histórico-Jurídica. page 90.

* * *

The importance and size of the Province of Mainas may be gauged by the following: don Demetrio Salamanca T. in his book on «Amazonian frontiers» says: «The peruvians declare that the territory that formed the old Mainas province is the same now called Loreto department»; and Sr. Anibal Maurtua in his «Economical Geography» says: «*The Department of Loreto* has a surface of 683 611 square kilometres. It is bigger than many european countries, excepting Russia».

What may be worth the 23,600 square kilometres of Tacna and Arica, over which Peru makes so much noise, compared to the rich and enormous territories that Peru has taken from Colombia and Ecuador and that she keeps against the will of the true owners? (1).

(1) In the maps included in this second edition it will be clearly seen how the claims of Peru have been enormously growing in front of the carelessness and want of energetic action from Ecuador and Colombia.

Anyone would say on seeing the moderation and measure kept by Colombia and Ecuador—not to be understood in face of the bigness of the question—that there is proof of their not having justice, when this is only want of energy and a blind faith in the permanency of their right.



Peru against Colombia

Perú against Colombia

SUMMARY: Peru and the right of strength.—Why Colombia does not do the same?—Treaties and pacts signed between Colombia and Perú and violated by the latter.—Protests and excuses.—The agreement of July 19th 1911.—The attack of peruvian forces under Lieut-Colonel Oscar Benavides on the Colombian custom guard of la Pedrera (1911).—Foreign Ministry communications.—Demonstration against Peru in Bogotá.—New peruvian invasions.—Peruvian cruelties and violences towards colombians.—Protest of the Colombian Minister.—Aeroplanes quick-firers and rifles asked in Peru to fight Colombia.—General Uribe y Uribe's opinion.—How can this conflict be solved?—Amusing threats of the peruvian Minister in Bogotá

Peru, that appeals to Universal Justice and likes to protest, when convenient, against the right of force, has never used in her internacional relations with Colombia and Ecuádor other arguments than force without any shadow of right.

General Tomas Cipriano de Mosquera relates that while the Pedemonte-Mosquera Convention was on the way of being updrawn to comply with the VI the clause

of the Guayaquil Treaty, he was once with several friends in an hotel in Chorrillos and he heard a high peruvian government official saying to a deputy: «no matter what treaties or conventions are signed now; these have no importance whatever, as the regions in dispute will be of the nation that *takes hold of them by force*».

To show that this opinion was not personal, but rather the expression of a general line of action, it is enough to know that from 90 years back Peru is maintaining the controversy with Colombia and Ecuador and at the same time she goes on invading and appropriating herself by force of the disputed territories. She thinks that possession—that as understood by Peru consists in the use of the territory, and not in the right to do it—will be enough in the absence of other titles to influence the arbitrator into giving her if not all, at least some part of the districts she ambitions, obtaining in that way at the least some unmerited advantage.

The peruvian defensor in Madrid on

knowing that the King of Spain exempted himself of arbitrating between Peru and Ecuador—feeling that his award would not be respected and a war would be started—said: «Let Colombians and Ecuadorians come now to dislodge us from our positions» (1).

Why Colombia and Ecuador have not accepted such a defiance, both being stronger than Peru; why have not they followed the same policy as their enemy? This is due to the deep feeling of the necessity of maintaining, even at the cost of their inheritance, the peace in South America; to an unbounded confidence, that reaches self sacrifice, in the justice of their cause and in the truth of their right. (2)

Like those ancient *hidalgos* for whom the passed word was stronger than any contract and the fulfilling of a pledge was

(1) Foreign Relations Report of Colombia for 1913.—Documents: page 304.

(2) Don Meliton F. Porras has maintained and has just repeated: «Peru has not yet recovered those territories (Tacna and Arica) *because she has not had the military strength that was needed*». La Nacion of Buenos Aires.

a religion; that believed that right had in itself strength to avoid being violated and that, like don Ilian de Toledo, fought «no por el huevo sino por el fuero» (not for the matter involved but for the privilege affected), Colombia and Ecuador from 90 years back in face of the violation of treaties, pacts and conventions, *modus vivendi* and *statu quo* agreed with Peru; in answer to the invasion of territories and violences committed by peruvian forces in their possessions on the Caquetá and the Putumayo, the Napo, the Pastaza and the Morona, are satisfied with presenting to the Foreign Minister at Lima the corresponding protest, very well based and drawn up, protest that the peruvian government answers without variation saying: «that they have no knowledge of the fact», «that a report will be asked from the Governor of Loreto», «that the Government of Peru wishes to maintain the most friendly relations with the sister republic», and so forth.

This situation is so extraordinary, of such novelty in international law, that one would think it impossible if there were

not documents and proven facts to support it. To illustrate this question nothing better than look over the Treaties, Conventions, pacts and agreements signed between Colombia and Peru and that have not been respected or have been deliberately trod upon by Peru. It must be borne in mind that these violations do not refer to old Treaties and Conventions, but what is of more significance and equally serious, to Pacts and agreements of recent date, perfectly pertinent to fixed districts and agreed upon by the contracting parties to avoid bloody encounters, while the great boundary suit is decided.

This summary although not complete, will show that, if to any nation treaties and conventions have ever been «scrap of paper», that country is our sister the Republic of Peru.

TREATIES AND PACTS SIGNED BETWEEN COLOMBIA AND PERU THAT HAVE NOT BEEN FULFILLED BY PERU.

1829.—On September 16th 1829, as provided by the 9th article of the Giron Convention (after the rout of the peruvian army at Tarqui), the plenipotentiaries of Colombia and Peru, don Pedro Gual and don José de Larrea y Loredó, convened in Guayaquil and after due conferring they adjusted a boundary Treaty that was signed on September 22d. The Congress of Peru approved this Treaty the 16th October of the same year, considering that it «finished the war in a permanent and honorable form for the dignity of Peru» and it was ratified and exchanged on the 27th of the same month.

This solemn treaty has not been respected by Peru.

1830.—Mosquera-Pedemonte Convention.—As provided by the VIth article of the Guayaquil Treaty, the Plenipotentiaries of Colombia and Peru, General Tomas Ci-

priano de Mosquera and don Carlos Pedemonte signed this Convention in Lima on August 11, 1830, with the aim, as therein expressed of «agreeing on the bases to be given to the Commissioners for the demarcation of the boundaries of both Republics».

This Convention has not been respected by Peru.

1905.—On September 12 an agreement of *modus vivendi* was arranged and signed by don Clímaco Calderón, Foreign Minister of Colombia and don Hernan Velarde, peruvian Minister in Bogotá, both governments agreeing that the *statu quo* would be maintained in the «territories disputed between both countries» until the controversy was ended by means of the arbitration compromise signed on even date.

1906.—On July 6th the Foreign Minister of Peru with the Plenipotentiaries of Colombia and Peru Sr. Tanco Argaez and Sr. Hernan Velarde, agreed on a pact of *modus vivendi*, repeating the clauses of

the former, both Governments agreeing on the retirement of all civil, military and custom authorities established on the Putumayo and affluents during the situation of transition of the suit to be arbitrated.

Both *modus vivendi* were violated by Peru causing Colombia to invalidate the last agreement on 1907.

1909.—On *April 21st* the Minister of Foreign Relations of Peru don Meliton Porras and Sr. Tanco Arguez, Colombian Plenipotentiary, signed a pact in which they agreed to constitute an international Commission to investigate the occurrences in the Putumayo region, after whose report indemnities would be paid to sufferers and to the families of the victims.

«Neither the joint Commission has gathered—as said Dr. V. Olarte Camacho in 1910—nor the thousands of colombians that have suffered damages or the survivors of those killed have received just reparation of their wrongs. In the meanwhile the relations with Peru are as cordial as if she was a friendly country».

1910.—On *April 23rd* the Foreign Minister of Colombia don Carlos Calderón and the peruvian Minister in Bogotá señor Tezanos Pinto signed a new agreement with the object of appointing a joint international Commission to fix the amount of indemnities for damages and injuries to persons or properties in the disputed region.

This agreement has not been fulfilled.

1911.—*July 15th.*— The Consuls of Colombia and Peru in Manaos, with proper authorization from their Governments, signed an Act that established that strict orders were to be issued to colombian troops not to advance and suspend hostilities and to peruvian troops to retire from the Caquetá.

This Act was signed, the orders were given, the colombian troops obeyed, but the peruvians refused to obey. *Again Peru had violated an international agreement.*

1911.—*July 19th.*— On this date the plenipotentiaries of Colombia and Peru

señor Enrique Olaya Herrera and Ernesto de Tezanos Pinto signed an agreement in their «desire to maintain peace» and to put away «all danger of encounters» in the amazonian region.

This agreement, whose remembrance causes indignation to all colombian hearts and whose context we will consider later, *was not fulfilled by Peru.*

* * *

]From 1913 there has ruled a *statu quo* repeatedly broken by Peru, that never ceases in her task of advance and occupation of the disputed ground. Colombia makes protests, Peru gives excuses and in the diplomatic communications there is the «highest cordiality».

By a Treaty signed in 1905, Peru and Colombia decided to submit their boundary questions to the arbitration of the Pope. The Congress of Peru did not consider this Treaty and consequently has refused the arbitrator, but up to date she has not offered another.

Although Colombia accepts as a general principle arbitration on questions that do not affect the honor or territorial integrity of the country, in the case of Peru she should not accept it for several reasons.

1st: Because there are examples of arbitration in América—as between Peru and Bolivia and between Peru and Ecuador where arbitration instead of solving the conflict created others more grave and dangerous;

2d: Because before a judge, whoever he may be, an unscrupulous litigant, like Peru, that does not hesitate in choosing the means to obtain a favorable sentence, has advantage over the one that simply defends his right confiding in strict justice; and

3rd: Because Peru would not accept an adverse award and the Colombian people would not renounce for any reason to their free and rightful outlet by the Putumayo and the Amazon.

Arbitration would be only a means for protracting ten or twenty years more the

problem, while Peru effects complete occupation of the disputed territories.

Direct understanding would be the best solution and if Peru refuses this the Government of Colombia has the duty of occupying these territories expulsing therefrom the Peruvian invaders.

As a sample of protests and excuses and to give proper background to the policy of both countries, I take the opportunity of quoting the corresponding paragraphs of the communications of the Governments of Colombia and Peru on the violation on the part of Peru of the Agreement of July 19th, 1911. As regards Ecuador—as we will see in the next chapter—Peru has followed the same tactics of not fulfilling the pacts, advancing her occupation and giving excuses.

On July 19th 1911 «the Governments of the Republics of Colombia and Peru, wishing to maintain peace and filled with the intention of reaching an agreement within the dignity of both countries to remove all danger of encounters» authorized their Plenipotentiaries Dr. Enrique Olaya

Herrera and don Ernesto de Tezanos Pinto, to make an agreement, and who decided the following:

«1st).—The Government of Colombia will maintain in Puerto Córdoba or *La Pedrera* a garrison that will not exceed from one hundred and ten men, among whose numbers the personnel of the colombian Custom and Guard will be included. The Government of Colombia will not allow this garrison to advance from that point and will stop in Manaos or where it may now be, the last expedition sent to the Caquetá that started from Puerto Colombia the 8th of June of present year.

«2d).—The Government of Peru agrees on her side that the troops and peruvian colonists of those regions will abstain themselves of all acts of hostility against the colombian Guard or colonists of Puerto Córdoba or *La Pedrera* and will deviate towards the Putumayo any expedition that at present may be going to the Caquetá.

«3rd).—The Governments of Colombia and Peru have sent due orders to their agents so as to avoid all encounter; but even in

case that difficulties of time and distance hinder the opportune arrival of such orders what in this agreement is stipulated will have strength and validity.

«4th).—This situation will be maintained while negotiations are carried forward between both countries to reach a *modus vivendi*.

«5th).—The Government of Colombia declares that the permanency of peruvian authorities and troops in the disputed region, does not mean recognition of any right of Peru over that district.

«The Government of Peru on her side, declares that the presence of authorities and troops of Colombia in Puerto Córdoba or *La Pedrera* does not imply recognition of any right of Colombia over the district on the right bank of the Caquetá».

This pact, a kind of shameful truce for Colombia, the result of an incomprehensible weakness and of a sequence of errors of the Colombian Foreign Office, that was not submitted to legislative approval and «that must be executed from the moment that it had been accepted by both Govern-

ments» was not fulfilled by Perú, although the Plenipotentiaries, the Minister of Foreign Affairs of Colombia and the Minister of Perú in Bogotá, engaged themselves to send the necessary orders to avoid any encounter.

«We know that the Agreement did not evite the collision and that stronger peruvian forces dislodged the Guard under command of General Gamboa»—says with timid simplicity the Foreign Minister of Colombia, in his report to Congress in 1912.

How could an agreement signed on the 19th of July avoid a collision that took place during the 10th, 11th and 12th of the same month, when the brave Lieut-Colonel Oscar Benavides (that afterwards reached the Presidency of Perú thanks to this prowess) with 500 men and boats armed with guns, attacked 70 sick colombians that formed the strength of the *La Pedrera* guard and defeated them after three days fight? (1).

(1) The enormous distance and the absence of means of quick communication explains the fact that on July 19th the Government of Colombia did not know of the attack that had taken place eight days before. But it is highly probable that the Minister of Peru in Bogotá knew of it.

* * *

This unheard of thing, this offense of Perú to Colombia, slap in the face that has not been returned, must be recalled, precisely in view of the fact that in Perú they try to make it appear as a «guerrilla's encounter» where peruvian doughtiness had the best, and in Colombia it is told as one more of the invading feats of Perú where we came out scatheless thanks to «the heroism» of General Isaias Gamboa, typical sample of our rural parasitism, raised by local politics to an unmerited military rank and to whom the administration of Dr. Restrepo gave the post of Commander of the *La Pedrera* guard, as he might have been appointed to any other post where there was not the slightest danger, nobody supposing that a post established two years before in undisputed colombian territory could be attacked either by savages or peruvians.

This notwithstanding and having with Perú «the friendliest relations», this post guarded by 70 men, almost all sick, was

attacked during three days, 10th, 11th and 12th July by four barges with eight guns, four quick-firers and 500 peruvian soldiers of the 9th Loreto Battallion commanded by lieut-colonel Oscar Benavides.

The brave colombian soldiers, without a chief (the «hero of La Pedrera» general Gamboa, worthy peer of the brand new Lieut-colonel Benavides, being down with «insolation») resisted three days the attack of the peruvians, until annihilated by fatigue, without ammunition and completely overmatched in numbers, they were forced to surrender. The colombian colors, the same that:

«From Angostura to Rimac, carried Victory
in blood-red painted and bedecked in Glory».

was taken by the victor as trophy and «the hero of Caquetá», the illustrious colonel Benavides, with the laurels cropped in this passage scaled supreme power in his country. *Plaudite, cives...*

All this means that the agreement of 19th July, kind of liniment applied by the Colombian Government to calm popular

irritation against the felonious attack on the guard of a custompost established two years before, was not drawn up to avoid the attack but with the purpose «that the peruvian forces evacuate that post and things return to their former condition».

Although this pact was depressing to colombian pride, the Colombian Government followed it strictly, ordered general Neiras expedition not to advance to the Caquetá, general Gamboa, (defeated in La Pedrera) to suspend hostilities and don Jorge Villamil, colombian commissioner in the Vaupes, to stop the advance of the colombians that were marching with him to the Caquetá.

Let us see what Perú did on her side:

The Foreign Minister of Colombia, Dr. Enrique Olaya Herrera, in a communication dated 14th October, that is to say *three months afterwards* addressed to the chargès d'affairs of Brasil and Venezuela in Bogotá, that had offered their friendly services in the conflict, says: «All the obligations that with the former document (act signed 15th July 1911 by the Consuls

of Colombia and Perú in Manaos, with due power from their Governments) were taken by Colombia, were immediately and totally executed. As regards Perú, Lieut Colonel Oscar Benavides declared to the commissioners appointed by the Consuls, that the encounter of the days 10th, 11th and 12th July had completely altered the situation and that he would obey the order of retiring from Caquetá only if his Government specifically repeated same, attitude that is in contradiction with article N.º 3 of the agreement of 19th July.

«On the 4th August—says the same communication—the Plenipotentiary in Lima asked from the Foreign Minister of Perú that he send the necessary orders to the peruvian Consul in Manaos so that the operation of the colombian customs could go on without resistance and difficulties, as agreed in the pact of 19th July. In a communication dated August 5th, the Foreign Minister of Perú estates that under even date perentory orders had been sent out to the peruvian detachment to abandon the site where the Custom post of Puer-

to Córdoba had been working, as soon as the wounded men were in marching condition. Later on it was agreed that the Consuls of Colombia and Perú would start from Manaos on the 25th August to see to the total evacuation of the mentioned points and the Foreign Minister of Perú declared to the colombian Minister in Lima that from the 19th August, the weapons and other material taken in the colombian Custom House would be at the disposal of the person that the Government of Colombia appointed to receive them.

«On this second occasion the *arrangement could not be executed* on account, as explained by the Government of Perú, that the order of evacuation had reached La Pedrera after Lieut Colonel Benavides had started for Iquitos leaving part of his forces in *La Pedrera*.

«In view of this fact, goes on the document quoted, that again left without realization on the part of Perú, the agreement of July 19th, the Minister of Colombia in Lima asked the Government of Peru

to fix the date of total evacuation of *La Pedrera* and of restitution of arms and materials taken from the colombian customs. The Foreign Minister of Perú answered, in communication dated 20th September, that the evacuation would be made inside the last days of the month.

«On this third time the obligation taken by the Government of Perú was once more unfulfilled and on the 29th September the Colombian Minister in Lima was made to know that the disobedience of the Governor of Loreto made impossible to the Government to execute on the date agreed the obligations taken by the communication of September 20th».

The people of Bogotá, although not knowing these humiliating details, indignant on account of the shameful attack on *La Pedrera* and with the rumor that the Colombian flag, taken by the illustrious «hero of Caquetá» commander Benavides, had been promenaded in Iquitos streets, left its habitual apathy and made a hostile demonstration before the Peruvian Legation on the 4th October of the same year.

The communication with which the Minister of Perú asks punishment of the guilty and protests before the Government, is a model of insolent pride in strongly taking up such an insignificant affair compared with the offence given by Perú to the sovereignty of a country she calls «sister» and to whose prowess she owes her independence. It is quite possible that if by hazard any flunkey of the peruvian Legation had died during the anti-peruvian demonstration of that night, the government of Viena would have had from that moment, in the communication that the Minister of Peru would have sent, a diplomatic precedent to inspire the writer of the famous aggressive intimation sent to Serbia on July 23rd 1914.

The quiet and «brotherly», not to give it other name, tone of the answer from Colombia, makes a great contrast with the peruvian note.

«The popular exaltation being provisorily quieted—says the report of the Foreign Minister of Colombia, page 44—by the reinstatement of the colombian Post in La Pedrera

and the delivery made by Peru of the war material, the Government (of Colombia) thought it was indispensable to give new impulse to the plan of *modus vivendi*, judging that the validity of the Agreement (of July 19th) could not last much longer, and that it should be only the preface of a serious negotiation...

«In the meanwhile and from various sources, news were received of new advances of the peruvian forces in the disputed region».

These are the old tactics of Perú in her diplomatic relations with Ecuador and Colombia: she disputes, alleges, puts in play all the tricks of her florentine diplomacy, gives excuses, speaks of «fraternity», denies acknowledged facts, evades discussing what is not convenient to her, and in the meanwhile advances her forces in the disputed ground as if it was *res nullius*, and if forced by repeated protests to evacuate certain points, she takes possession of some others without loss of time.

«From different sources—says Dr. José M. González Valencia, Minister of Foreign Relations of Colombia, in a communication

sent to the Minister of Perú in Bogotá on April 13th 1912—my Government has received news, during the last months, of the movements of peruvian forces on the Caquetá river; and after proper investigation the Government has official reports that testify to the presence of peruvian garrisons in the points called *Puerto Pizarro* (1). and *Las Delicias*, established there with the main purpose of hindering by force the traffic of colombian workmen and traders. As this acts take place on territory that Colombia considers as hers, and as moreover they represent a transgression of the Agreement signed by your Excellency with my predecessor in the Ministry, I put them in the knowledge of your Excellency, so that cessation of this estate of things may be obtained from the Government of Perú».

The Minister of Perú in Bogotá answered as follows under date of April 25th 1919:

«According to the informations received

(1) The name of this Colombian port on the Caquetá river is not due to the conqueror of Perú; it is the name of a Colombian explorer Dr. Pedro Pizarro, who founded a post there.

from the Foreign Minister, my Government *does not know* if at present there are peruvian garrisons in *Puerto Pizarro* and *Las Delicias*; but judges that the presence of such forces there is not against, and cannot be taken as a violation of the Agreement of past year, that only provided, as I have already said, the obligation to deviate towards the Putumayo any expeditions that at that time were going to the Caquetá and that the peruvian forces and colonists that were in the regions of that river would abstain from any act of hostility against colombian guards or colonists of Puerto Córdoba or *La Pedrera*».

To this pettifogger answer from the Peruvian Minister, the Colombian Foreign Minister sent the following conclusive argumentation:

«On this point I take the liberty of calling the attention of your Excellency:

.....

«It was agreed that the peruvian expeditions would be deviated towards the Putumayo, without this fact meaning any recognition on the part of Colombia of Pe-

ruvian rights on that river, as it was clearly stated in the Agreement...

«Given the precise terms of the second clause of said Agreement, it is evident that the expeditions sent at that time by the Government of Perú were to retire towards the Putumayo and could not occupy any point on the Caquetá. This condition would be completely absurd, if we were to understand that once the expeditions referred to retired, the Government of your Excellency could send new ones to effect the occupation forbidden to the earlier expeditions. It is not to be guessed how the terms of a *modus vivendi* can be adjusted, if at the same time that diplomatic negotiations go forward in search of an arrangement, one of the parties, claiming what she calls imprescriptible rights, starts new advances in the disputed region itself.

«If the Agreement had only the exclusive meaning that the communication of your Excellency seems to give it, it would be a null agreement, as it would mean an obligation of peace in only one point of the region, accepting at the same time a state

of anormality in all the points that are near and around that one».

Although the Annual Report of the Foreign Affairs Minister of Colombia for 1912 says: «Latest informations received advise the Government that Peruvian forces have evacuated the positions of Puerto Pizarro and Las Delicias, of whose occupation notice had been given», this evacuation did not take place but to occupy again Las Delicias by peruvian forces, as can be seen by the communications of the Colombian Minister in Lima during the year 1913.

*
* *

Since twenty years back, the Colombian Legation in Lima has no other duty than to write communications of protest, in the same tone and similar terms, about the advances of Peruvians in the Colombian territory, on the violences, spoliations and murders by Peruvian forces against Colombian colonists and workmen, but all this fumbled diplomatic literature, has not made any impression on the situation. A pact, an

agreement, a *modus vivendi* is signed with Peru, and—there are documents to prove it—before six months are past the Colombian Legation will have sent a protest for the violation of the pact, the agreement or the *modus vivendi*. And in this fast and loose game, in these answers in writing to the movements forcibly made by Peru, we keep on and will keep on until the Government of Colombia follows its first constitutional duty, that of protecting the national territory and the lives and properties of the Colombians that work in the Caquetá and the Putumayo, employing for that purpose the same means employed by Peru, military force, the only means of stopping an audacious invader, that does not respect its obligations and to whom diplomatic communications and written protests are only a cause for new pettifogging discussions.

As a sample, among many, of the violences committed against colombian citizens, by the forces of that same Government that angrily protests before the world because Chile, using her sovereign right, deports from Tacna certain peruvian curates

that will not respect Chilean laws, we quote a communication from the Colombian Minister in Lima, one of the numberless from the same source:

«Colombian Legation.—Lima, May 9th 1913.

«To the Minister of Foreign Relations of Peru.

«Sir: Complementing my communications of the 19th and 30th April ult. with the details received by last mail relative to the violences against the Corregidor of the Yari and his companions, to which such communications referred.

«From the respective report sent to my Government from Florencia, we have that on the 6th January of present year, the Corregidor of the Yari, Celiano Gutiérrez started from a port on the Cuamañi river to reach the Penaya, together with ten men. On passing in front of *Delicias* on the Caquetá river, a group of Peruvian soldiers opened fire on them from the port, forcing Gutiérrez to land with his men, when they were taken prisoners, and ordered to take out all they had in their canoes.

«Next day the prisoners were forced among insults, threats and manhandling from their conductors, to start at five o'clock in the morning carrying the provisions and armament of all the expedition. The march had to be very slow owing to the weight the men had to carry, most of them being ill, and they were continually and cowardly insulted and maltreated on account of their slowness. The cargo that Gutiérrez brought in his canoes he had to leave at *Delicias*, not being allowed even to take clean clothes with him.

«Four days after coming out of *Delicias* the prisoners arrived at a point called *Como*, where the chief of the peruvian forces, Lieutenant Augusto Falconi, did not allow them to enter the house until after they had been kept under the burning sun from 11 A. M. to 6 P. M. At 11 P. M. Falconi ordered the soldiers to take the prisoners out of the house: They were taken about one hundred metres off, placing Gutiérrez over an ant hill, and after half an hour appeared the Lieutenant promising to shoot Gutiérrez if he did not tell him the code cipher

he believed Gutiérrez had to communicate with the Colombian Government. As the Corregidor could not accede to this, not having any cipher, he ordered the soldiers to simulate they were going to shoot him, going on with this scene several times.

«On the following day the prisoners were taken to *La Florida*, on the Caraparaná river, being embarked in a boat there, to travel to *Encanto*. The prisoners had to row all the time during this trip, night and day without being allowed to eat. In *Encanto* they were kept thirteen days; Gutiérrez in a room with a sentry guard and treated as a criminal; his companions forced to work, even those that were ill, and all being very badly fed.... On the 5th February the commander of the *Encanto* post informed the prisoners that he had orders to take them back to *Delicias* where he was going to put them in liberty. On the 10th they reached this post. From the cargo that Gutiérrez was forced to leave, there were only traces; he had been robbed of all that could be useful: clothes, ammunitions, rifles, corn, goods and other things.

«What I have related will make your Excellency see the magnitude of the violences committed, a shame to our times and a dishonor to those that have acted in such a way.

«I cannot finish without pointing out anew to your Excellency the necessity of strongly punishing those answerable for such outrages, that not only perturb the good relations between Colombia and Peru, but go against the fundamental principles of humanity and justice».

(Signed) EDUARDO RESTREPO SAENZ,
Envoy Extraordinary and Plenipotentiary
Minister of Colombia in Perú».

* * *

Of the 1,500 kilometres of navigable waters of the Putumayo the Peruvians militarily occupy more than 600, Colombia near 400 and the remnant is occupied by Brazil.

Colombian colonization, that up to 1900 had not been perturbed by peruvian authorities, reached along the right bank of the

river to the Nieto or Motú river and along the left bank to the limits of brazilian occupation, that is to say to the mouth of the Cotuhé river.

Brazil, in the instructions given to her delegates and frontier garrisons, signified that on the left bank of the Putumayo her grounds extended to the *de facto* occupation boundary with Colombia, from the Igaraparaná, whereas on the right bank she recognized Peru as adjacent, from Tarpacá, in accordance with the Treaty of 1851.

With respect to the Caquetá, Peru never had any possession there, until the incidents of 1908 and 1911. Although the Peru-Brazilian Treaty of 1851 fixed the geodesic line of the frontier as reaching to the Apurí river, Peruvian colonists or soldiers did not enter those regions at the beginning of their invasion. They preferred to enter to the Putumayo basin with its great affluents the Caraparaná and the Igaraparaná, where there were the best caucho producing districts and from where they dispossessed by force the colombian owners, taking advantage of the absence of Colombian troops,

the Colombian Government having there barely the indispensable civil officials.

To-day there is a peruvian garrison in Tarapacá, at 20 kilometres of the Fiscal Port of Brazil; another in Encanto, on the Caraparaná river; another in the village of La Chorrera, on the Igaraparaná river and a further one at Yubinetto or Giovinetto on the mouth of the river of this name. The garrison of Giovinetto marks the present *de facto* frontier between Colombia and Peru on the Putumayo.

On the Caquetá, the peruvians hold part of the left bank along an extension of about 100 kilometres, more or less, up to the Ca-huinary river, where live the *andókeras* tribes, brutally oppressed by the peruvians, who together with the *boras* and *huitotos*, are employed to work the caucho without payment. There are frequent risings of the indians quelled by the Peruvian forces. On the year 1917 Peruvian soldiers put fire to an indian hamlet near La Chorrera, on the Igaraparaná, causing the death of about 160 indians, burnt or drowned.

The Colombian revolution of 1899 gave

Peru the opportunity to enter those immense territories that Colombia had left almost abandoned, without garrisons or armaments, because the Government attended in preference the maintenance of public order in the interior of the republic.

At that time the Peruvian custom post of Tarapacá was founded and the invasion began, with dissimulation at the beginning, brazenly and with violence later on.

Peru, that has a rather big flotilla on the Amazon, has employed it to advantage against Colombia and although she has signed during the last years several agreements on provisory joint dominion and on free navigation over the controverted rivers, she never allows any embarcation to pass that is going to Colombia and submits Colombian colonists to the most degrading conditions of inequality, to force them to abandon the territory.

It has been known of late, that Dr. Tomas Márquez, old Fiscal National Inspector of Colombia, tried to establish on his own account and as a private contractor, supported by the catholic missions (that have been

strongly helped by Sr. Márquez), a trading shipping line from the river ports of Maaos or Iquitos to the colombian port of Asis, on the Putumayo river. Sr. Márquez made great sacrifices to foster this initiative that was of advantage to the three countries (Colombia, Brazil and Peru) and did not affect in the least the boundary questions; he risked several times his life in extensive travellings over almost deserted regions in company of the valiant spanish missionary R. P. fray Gaspar de Pinell, and after going over the best water ways to come out on the Amazon, he made a friendly proposal to a peruvian company, owner of river steamers, to establish the trade between Peruvian and Colombian river ports. It is known all over the Amazon that the peruvian company refused the advantageous offers of Dr. Márquez, merely because he was a Colombian and had held high functions in the Government, the Congress and in the political life of Colombia. (I)

(I) Due to the opposition of Perú the connection of telegraphic lines has been imposibilitated. That would have made easy to send messages from Argentine, Chile,

It is evident, nevertheless, that if such trade had been established the economic relations between Peru and Colombia would have been made closer, the peoples would have come nearer an easier understanding and many causes of divergence would have disappeared, and finally the ties of common interests would have firmly welded the friendship between the two neighboring nations.

Sr. Márquez then recurred to the noble and generous people of Brazil, finding the most friendly reception. After conferring with several shipping concerns he obtained a trial trip with a Brazilian steamer, the «Yaquirana», with a small trial cargo.

In August 1918 the «Yaquirana» started on her trip, and on passing in front of Tarapacá was carefully revised by the chief of the Peruvian post, who finally did not object to the continuation of the trip. Several days after a Peruvian gun-boat stopped the steamer, and without respecting

Uruguay, Brasil, Paraguay and Bolivia to Perú, Ecuador, Colombia and Venezuela, a development of the utmost importance to South American relations.

the Brazilian flag and after a new and detailed inspection, ordered the captain to anchor the steamer at the Encanto military port, until further orders were received from Iquitos. The steamer was detained there over five days. The Brazilian crew have related to the Manaus press the humiliations and vexations that they suffered, with their trading steamer under the orders of the Peruvian authorities, although Peru has a treaty of free navigation with Brazil and calls the later his friend and ally.

The Captain of the Yaquirana, together with Sr. Márquez and father Gaspar, after formulating the strongest verbal and written protests, decided to leave for Manaus without waiting for any permission, and to put theret he facts in the Government hands. We do not know what the Government of that great country has done, but we think very likely that Peru using her ability for deceit and intrigue, may have dissembled her grave insults. On the Amazon there have been several peruvian citizens that have been audacious enough to call Sr.

Márquez a *german spy* and have communicated to Iquitos that the Yaquirana was a Colombian warship!!

* * *

Compare these facts that are neither the only ones nor the most serious of those that have been executed (1) this

(1) The victims of peruvian rapacity in those regions are numberless. The *Blue Book* of England containing the report of Sir Roger Casement, establishes that in ten years of extermination, the indian population that was of some 50,000 souls was reduced to 10,000; that is to say that Pizarro's descendants killed four thousand indians a year, among indescribable cruelties.

Since 1900 there are hundreds of colombian victims sacrificed by the peruvians in those regions: «In the felonious assault directed by peruvian authorities in 1907, to the post of *La Unión* and *La Reserva*, on the Caraparaná, they killed the Police Inspector Primitivo Melo and the colombian citizens Gustavo Prieto, Pedro León Santos, Juan Escobar, Ramón Castro, Francisco Duarte, Benjamín Muñoz, Abelardo Rivera, David Serrano, Vicente y Francisco Ramírez, Luis Jaramillo, Félix Lemus, Juan Ancerra, Fernando Quimayas and some others. In another assault the Putumayo Inspector Gabriel Martínez and his small escort were taken prisoners and forced to go to Iquitos». (Report of the Foreign Affairs Minister of Colombia, 1913; Documents, page 336).

being a mere sample of the constant action of Peru in the Colombian territories of the Caquetá and the Putumayo, with the measures adopted recently by the Government of Chile, in protection of national tranquillity, against dangerous peruvian agitators, ordering the «personal identification of the various foreigners that have put themselves in open rebellion against the laws of the country», measures that have caused the Peruvian Foreign Minister don Arturo Garcia, to make «the wellkin ring», and now, note this wide difference:

1) Forces of Peru in colombian territory imprison, insult and manhandle Colombian authorities and colombian citizens for the crime of travelling over ground on which Peru does not have and cannot allege other title than the Royal Cedula of 1802. This document, as has been shown and has been clearly demonstrated, *does not refer to political territorial division but merely to religious and military jurisdiction; was never put in practice by the colonial government and even on the religious and military matters was*

annulled by the uti possidetis de jure of 1810 and by the Treaty of Guayaquil of 1829.

To these oft repeated actions of grave and notorious usurpation, committed by a nation that styles herself «friendly», in violation of all signed Treaties and Convention and even against common moral laws, the Government of Colombia has opposed the measured and formal communications in which she deplors that events such as those mentioned can be committed, being as they are «hinderers of the good understanding between Colombia and Peru»

2) Chile making use of her full dominion and sovereignty in Tacna and Tarapacá, dominion and sovereignty that have been recognized by Peru by means of a solemn Treaty, measures peruvians with the same measure she applies to all foreigners all over chilean territory, and the Government of Peru makes out a sensational novel, cumulates imaginary facts, distorts others and sends to all the world a high toned protest making herself out as a «victim» that asks protection against chilean «imperialism».

This international comedy would be lau-

ghable, if tragedy was not on the reverse of the medal.

* * *

Sir Roger Casement, British Commissioner for the investigation of the atrocities committed in the Putumayo by the Peruvians at the orders of *The Peruvian Amazon Co. Ltd.*, resumes his impressions as follows: «the crimes of the Congo are nothing compared with the atrocities of the Putumayo. Natives are punished by flogging with leather whips; THEY ARE MANACLED HAND AND FOOT TO IRON BARS; WOMEN AND CHILDREN HAVE BEEN CRUCIFIED; THE UNFORTUNATE INDIANS HAVE BEEN SHOT BY THE DOZEN; SOME OTHERS HAVE BEEN BURNT ALIVE, WITH THEIR HAIR SOAKEN WITH KEROSENE»

Don Luis Ulloa, a foremost and manly peruvian newspaper man, said in *La Prensa* of Lima of 8th July 1912:

«These crimes of the Putumayo are—as properly expressed by those that have referred to them abroad—the most infamous

and monstrous that can be attempted or have been committed against humanity and morality. They have not been described here in all their enormity, because there has been no moral courage to charge with them the Government that *knowing them allowed their continuation, with the purpose of protecting the interests of the Arana firm or following a sense of international policy that is absolutely ignominious...*

The same writer adds elsewhere:

«This must be put an end to. It is not even well ascertained up to where reach the rights that, in conformity with international principles, Peru has on the territories of the Caquetá and the Putumayo. Instead of investigating and sensibly determining such rights, to take possession of what rightfully is ours, the Government has established the system of delegating such high and delicate duties to adventurers and traffickers. These are the men than mark boundaries, fix and even create the rights of Peru, without taking into account none of our general conveniencies. Can such bloody men know—not even if Peru has legal titles

on this or that territory—but even if it is convenient for Peru to obtain them? Assuredly not.

«But they represent Peru and so is confirmed and proclaimed by the Government. Colonization is carried by destruction of the forest to exhaust the rubber, stamping out the indian tribes to satisfy their avidity of lucre or lust. Nothing is left behind: cultivation, industries, farms, villages. Only ruins and emptiness. To brutalize is not to civilize: this is what our ready-made diplomatists call the taking of possession and the right of occupation.

«Enough of conventional lying. Our Orient will be a peril and a wrong rather than a hope and advantage for this country, while measures are not adopted to send there colonists that civilize instead of spoliators that destroy.

«Let us have as soon as possible the frontiers well marked, taking as guides science, justice and fairness; let us take possession of what right and convenience give us and let us proceed to protect there the development of permanent and reproductive in-

dustries, by means of the introduction of a population carrying there plentiful life instead of death and destruction. That would be civilization.

Above all and before anything, such sinister crimes must be stopped that have made famous the name of Putumayo as that of Armenia: famous in the history of human massacres.»

.....

* * *

The clever diplomacy of Peru, when it is to her advantage, knows how to pacify the Colombian Foreign Office with hopes of a near settlement, and that is why it is not to be wondered that there are some colombians, who have not gone very deep into the question, that falsely believe that everything is «almost» settled (1).

(1) The persistent propaganda that Perú keeps up against Chile or in favor of her territorial ambitions, varies according to the country in which it is made. In Colombia, by example, is very original and special: Once it is a Peruvian Minister in Bogotá that sends to prominent colombians a new book published by Perú on the Tacna and Arica question, asking them at the same time an opinion on the book, opinions that later

That is why in some parts of America it is thought that not only Peru keeps with her northern neighbors the best and friendliest relations but if there is any «petty question» of boundaries between Peru, Ecuador and Colombia, it is of such paltry consideration (600,000 square kilometres of disputed territory!!!) that it will be solved easily,

on will be used as coming from prominent colombians on the question itself; and not on the book that refers to the question; another times, between the champagne and cigars, some facile writers are asked to write something on this problem, which they know about as well as the Grand Vizier knows feminine suffrage, articles that will be published with the name of and personal items about the author. This same system has been put in use in Argentine and elsewhere.

As not all writers can devote their time to the study of international documents, it is easy for the keen peruvian propaganda to find sympathy among some newspapermen, that at the least show it by keeping silent. Let us give an example: this is murmured in the ear of a newspaperman «The rights of Colombia and Ecuador in their controversy with Perú are not very clear: the ex-President of Colombia don Manuel Antonio Caro asked from don Teodoro Valenzuela his opinion on the dispute and Valenzuela gave reason to Perú; this opinion, kept secret, was lost, but the Government of Perú *found it*, and will use it on proper occasion. The ex-Minister of Colombia in Lima Dr Aníbal Ga-

with a mere effort of good will from the several parties.

Colombia and Ecuador, who by the clause 26 of the Treaty of July 9th, 1856 agreed to «lend each other mutual cooperation to preserve the integrity of the territory of the old Republic of Colombia that belongs to each» have always been most anxious to

lindo, married with a peruvian lady, had many papers and documents related to this question, all in favor of Perú, and when he died suddenly, these documents passed to Sr. Ulloa, peruvian Minister in Bogotá.

Such unfounded rumours that puts the Peruvian Legation in Colombia in such invidious position, are canvassed by peruvian agents and go round from mouth to ear among the newspaper fraternity, without taking into consideration that:

1st. President Caro was not the man to ask opinions from a liberal and less such a one as Dr. Valenzuela, whose authority on international questions was not without dispute;

2d. Dr. Valenzuela was not the man to treat such a question without studying it with documentary proof, and consequently could not give opinion in favor of Perú;

3rd. Dr. Galindo did not have documents that could favor Peru's ambitions, the only one in existence being the Cédula of 1802 that has no juridical value and has been sufficiently discussed;

4th. If Peru had had any argument in her favor she would have advanced it before the Royal Arbitrator in her suit with Ecuador.

solve this suit in a friendly way with Perú; but this solution does not seem obtainable by the means used so far.

The peruvian Captain Arana, quoted by father Fidel de Monteclar in his report of 1913 on the Putumayo missions, says speaking about Colombia:

«The war with this nation must be a mountain war; consequently we need aeroplanes, quick-firers and rifles. Perú, that could invade Colombia by Buenaventura, will not do it, as that enterprise requires an army at least of 200,000 men, taking into account that the Colombians are brave and that all of them are soldiers. We must remember that in one of her last revolutions the Government of Colombia had seventy thousand fighting men and the revolutionaries had fifty thousand, that is to say a total fighting force of one hundred and twenty thousand armed men.

«We have nothing to fear by sea from Colombia as our *Grau* and *Bolognesi* are more than enough to cope with any attempted invasion of our territory by the Pacific.

«The problem is then in the mountains,

where we must concentrate soldiers, that is to say, aeroplanes, quick-firers and rifles instead of school-ships».

* * *

The present estate of the litigation is revealed by señor Federico Elguera, Minister of Peru in Bogotá, who, although not being a wonder and ignores the date of signature of the Ancon Treaty, has plainly and ingenuously shown both the manner in which Peru considers that pact and the peruvian policy of sweet nothings and womanish threats towards Colombia. The Minister of Peru declared in a interview to a Bogotá paper (1) on the 30th November, 1918:

«We are moreover decided that the question we have pending with Chile *so many years*, is to be solved by the great Court of Peace that will be held shortly in Europe.

«The Treaty that we signed *40 years ago* with that nation is now considered null by us, because it has not been fulfilled, and

(1) *Gaceta Republicana*.

as I said before, we will submit this question only to the decision of that great Court. Maybe it is this decision on our part that has moved Chile to act as she is doing. In all cases we will not desist.

—«Could you say something on the progress of the boundary Treaty with Colombia?

—«I am at present considering it together with the Government of Sr. Suárez, and it will be probably concluded to the satisfaction of both countries.

«I must tell you speaking about the reserves you have here against my country that they *have no foundation*; in Perú we esteem the colombians as if they were our countrymen. You *are mistaken*, *Peru is a friend of Colombia*. (Since 90 years she is giving us proof of that friendship!)

—«How would you take a demonstration of sympathy to Chile that some young people have organized?

—«If it concerns itself solely to demonstrate simpathies to Chile I will not notice it; but if, as always happens, it begins with hurras for the one to end insulting the other,

then *I will have no other action but to go away*, deploring that the Treaty we spoke about must be left unfinished. *I will take that step immediately* if the demonstration assumes any character against my country».

It is likely that the people of Bogotá intimidated by such a serious threat kept silent her protests against Perú; because that menace, as measured by señor Elguera, was of the utmost gravity; on one hand Bogotá would lose the important presence of the peruvian Minister and on the other the boundary Treaty in which Perú naturally will recognize Colombian dominion on the Caquetá, the Putumayo and the Napo up to the Amazon, would be postponed for another occasion.

Fortunately Sr. Elguera is still in Bogotá trying with the Government of señor Suárez, to solve a problem that the most prominent men of Colombia have thought of difficult solution, as long as Perú does not satisfy national sentiment, fulfilling the pacts she has signed.

General Uribe y Uribe, that has perfect knowledge of the Colombian question with

Perú, and the only Colombian that would have had power and energy to solve it, said in the Colombian Senate in 1912:

«I think it is impossible to go into compromises and reciprocal concessions before Peru has evacuated the regions she has in her power and has not offered proper satisfactions to wounded national pride, reparation for the insults and spoliations that she has made us victims to as a nation and in the persons of our citizens and indemnities and restitution for the exploitation of our territories. The relations of both countries cannot be placed on an equal footing of cordiality when there are precedents of insults not satisfied and when negotiators do not approach each other endowed with the same amount of honesty and loyalty.

.....
«Colombia and Ecuador cannot and must not do otherwise than take things back to the position they were in 1829 and jointly force Peru to fulfill the Treaty of Guayaquil and the Mosquera-Pedemonte Convention.

«Any step out of this road will be to for-

get pledged public faith, to degrade injured national honor and to ignore the clearest public and private interests.

«Peru wants to take out of us in the North, the losses that her unhappy war with Chile imposed on her in the south in 1879; but our answer is very simple: to have moral authority before the world to exact the total fulfillment of the Ancon Treaty, let Peru first fulfill the Guayaquil Treaty to which are pledged her faith and her honour. If she protests because there are clauses of the Ancon Treaty not executed in thirty years, she must remember that from eighty three years back she keeps on forgetting the obligations she assumed by the Guayaquil Treaty, after another losing war. One must have the repute of being an exact payer to accuse others of not paying».

This opinion from one of the most eminent colombians, is the opinion of all the Colombian people, without distinction of political divergencies.

Mayhap the best means to solve this conflict, as well as the ones between Peru and Ecuador and between Peru and Chile,

would be the Union of Intellectuals—the directors of the thoughts of the peoples—of the latin american countries, who, after getting to know each other and to know their respective countries, as I have proposed in the Project of the *Latin American Intellectual Union* (1), would study these problems and would propose to their countries and enforce on their Governments, friendly solutions based on mutual sacrifice of aims and conveniences, for the sake of having undisturbed peace in America.

To beg the guardianship of powerful foreign nations, for them to come and settle what could be settled directly among us, is as foolish as dangerous. It is the sowing of winds to reap tempests.

(1) See my book *La Unión Intelectual Latino-Americana*. Madrid, Imprenta de Galo Sáez, 1916.



Peru against Ecuador

Peru against Ecuador

SUMMARY.—Divide et impera.—Inefficacious tactics of Peru.—Colombian-Ecuadorian treaty.—Unratified treaty of 1832.—Blockade of Guayaquil.—Treaty of 1860 refused by both republics.—Constant protests of Ecuador.—Tripartite convention.—Conflict between Peru and Ecuador in 1910.—Tumbes-Marañon or war.—Peruvian aggressions against Ecuador.—Protests of Ecuador.—Communication of the Minister of Ecuador Aguirre Aparicio.—The excuses of Peru.—Violation of statu quo by Peru.—The occupation of disputed territories judged by the Peace Conference.—Communication of the Minister of Ecuador in Lima Doctor José Peralta.—Accusations of the utmost gravity.—The situation of the controversy in 1918.

Against the wishes of Peru, who has tried, as a triumph for her territorial aims of expansion to the north, to provoke disagreements between Colombia and Ecuador over the territories that are rightfully theirs and that have been occupied by Peru, both countries, without need of arbitrator, without any interposition of other parties and guided only by their high sense of justice and mutual advantage, have

put an end to the boundary question between both and have fixed their frontier by means of the Treaty signed by both Governments on July 15th 1916.

The action of Ecuador and Colombia directly solving their boundary question, shows that this is the quickest and easiest way, which at the same time establishes the strongest ties, and that it should be the means for solving all difficulties between american republics. All that is needed for this is for both parties to try and desire a peaceful solution with equal interest and equal spirit of amity and that both negotiate with an equal amount of good faith, loyalty and mutual spirit of sacrifice of the antagonistic claims.

In this way the peruvian tactics of *divide et impera* (1) trying to separate

(1) «The representatives of Peru and Bolivia convened in Arequipa (1831) and the Peruvian representative proposed to the Bolivian an alliance against the policy of Colombia. The bolivian Minister refused the proposal, stating that such alliance should embrace the the republics of Bolivia, Chile, Peru, Colombia and Argentine. The negotiation failed.»—M. Ordoñez Lopez and L. S. Crespo, History of Bolivia, page 219.

Ecuador and Colombia and to incite doubts between Colombia and Venezuela, between Argentina and Chile and between Chile and Bolivia, has completely failed. The desire for peace and friendship is so strong among the American republics that the efforts of Peru to perturb this feeling has been powerless and has only served to put them on guard in face of the peruvian kaiserism, that does not hesitate to ally itself to the american international socialism or to the imperialist rooseveltian party, to further its aims of territorial expansion.

The Government of Peru, on getting to know of the Colombian-ecuadorian Treaty, put forward «the protests necessary to reserve all their force the rights of Peru on the^{te} territories to the north of the Amazon» and tried moreover to maintain that Ecuador had broken the *statu quo* on signing with Colombia an agreement involving disputed territories, as if an *statu quo* created or affected rights based on clear titles and as if it had not implicitly an unpermanent and transitory character.

If peruvian relations with Colombia have been those of the bold conqueror, who some times with the arquebuse and others with the bright beads and ribbons of «fraternal» diplomacy, advances always, without finding other resistance, since 1829, than the paper screen built up by the communications of the Colombian Foreign Ministry, her relations with Ecuador have been that of uninterrupted spoliation of the weaker, of an imperialism that has wrestled from Ecuador about a third of her dominions and aims to take about as much again.

As Ecuador touches Perú along all her southern frontier, from Tumbes to the Marañon and Amazon and those ecuadorian regions being of easier access and nearer to the populated districts of Perú, the invading action of Perú has been easier over the Pastaza, the Curaray and the Napo, than over the Putumayo and Caquetá.

«Finally, says the ecuadorian writer don Pedro Cornejo, on making themselves independent, each of the spanish provinces

should have constituted her government within the boundaries of her territory, and each should have emancipated herself, respecting at the same time the rights of the others; but Perú, far from that, as soon as Colombia helped her to gain the status of a free country, started her action by pretending possession of Guayaquil, took possession of Tumbes, seized Jaen and part of Mainas and reaches to the extent of maintaining such *usurpations* by the force of arms.» (1).

The circumstance of Ecuador being a weak country with no fleet, has given audacity to Perú, who on two occasions has blockaded Guayaquil and has reached with her military expeditions to the province of Machala.

Note must be taken that, if in any country in América Perú has a great field open to her friendship and spiritual influence,

(1) ... «the claims of our adversaries will not be satisfied until Ecuador resigns herself to lose her independence and passes to form a part of Perú as under the Spanish rule.»—Pedro Cornejo M., *Critical Examination of the Cedula of 1802.*

it is in Ecuador, by reason of the ties and kinship that unite the directing classes of both countries and the trading relations of both republics, all of which has not been obstacle for these peoples to pass through epochs of declared enmity, even keeping on war footing, when the patience of the ecuadorian people has been overburdened by constant attacks.

* * *

The Republic that was the Great Colombia, divided herself (1830) in three countries: Nueva Granada, Ecuador and Venezuela, and Ecuador constituting herself as a Sovereign State, established in the 6th article of her Constitution that «the territory of the State embraces the three departments of Ecuador, within the limits of the old Reign of Quito.»

Ecuador, it must be frankly said, in her relations with Perú and thanks to misplaced complacencies, has incurred in several errors that she has had later to rectify. In 1832 she agreed on a Treaty with Perú

whose ratifications were fortunately not exchanged, and in which (art. 14th) it was provided that «while a convention is agreed on the limits between both countries, those existing at present will be respected and maintained».

This Treaty was not approved and Ecuador by the law enacted in November 8th 1832, and then by the laws of April 13th 1837; of 1842, 1853, 1854 and 1857; during the diplomatic conferences with the Peruvian Plenipotentiaries; in diplomatic notes of her Foreign Department and by various acts of her Government, has been constantly upholding her right to the boundary line fixed by the Treaty of 1829; has protested against the Peruvian pretensions and claimed the return of the regions occupied by Perú.

In 1858 relations were broken and Perú ordered the blockade of Guayaquil, that was carried out five days later.

General Guillermo Franco usurped executive power of Ecuador at that moment, under the name of Supreme Chief of Guayaquil. The Government of Perú using the

pressure of the blockade took advantage of the critical situation of her adversary to celebrate the Treaty of 1860, in which the pseudo ecuadorian chief, not Ecuador, recognized as the limit between both States »those that are deduced from the *uti possidetis* recognized in the 5th article of the Treaty of September 22 of 1829 agreed between Colombia and Perú and that the Virreinos of Perú and Santa Fé had in conformity with the Royal Cedula of 1802» and appointed a commission of delimitation.

As soon as this Treaty was which, the national sentiment of Ecuador rose against it; the whole Republic arose against the usurper; the provinces of Quito, Ambato, Latacunza, Ibarra, Guaranda, Riobamba, Otavalo, Alausi, Azogues, Tulcan, Cotacache, Cuenca, and Loja cried their protest against the Treaty and the government of Franco was pulled down, and finally the National Convention of 1861, truly interpreting the sentiment of the people, declared the nullity of the odious pact.

The Congress of Perú, acting this once

in a fair manner, denied also his approval to the treaty (1) Notwithstanding such unanimous repulse of this treaty it has been used later by the peruvian Foreign Department as an argument in favor of the validity of the Cedula of 1802.

By note of October 6th, 1861, addressed to the Government of Perú, the Minister of Ecuador Dr. Carvajal, says: »From thirty seven years back Ecuador, since she was a department of Colombia, enrolls among her laws the one that, fixing her territorial boundaries, embraces among her territories those of Quijos, Jaén de Bracamoros and Mainas, and *no Government of*

(1) «Foreign Relations Ministry, Lima the 31st January, 1863.—To the Chargé d’Affairs of Ecuador.—I have the honor of enclosing for the knowledge of your Excellency the N.º 13 of «El Peruano» in which is published the law lately enacted by National Congress, rejecting the Treaty of peace, friendship and alliance celebrated in the city of Guayaquil on January 25th 1860 and empowering the Government to settle pending questions between both Republics on *just and honorable bases*.—I take this opportunity to reiterate to your Excellency the assurance of my most distinguished consideration.—José G. Paz Soldan».—Honorato Vasquez, op. cit. page 171.

Peru has protested during this long term against such delimitation; being worthy of note the circumstance that this is not the first time that the present President of Peru rules as Chief Executive the Republic of Peru. To prove what is herein stated, it is enough for the undersigned to recur to the witness of your Excellency, placing under consideration the articles 11 and 12 of the Colombian law of 1824... There is yet another superior law, of equal force for both countries, in the Treaty of September 22 of 1829, *treaty that left this question decided*, establishing the manner and form of boundary delimitation between both Republics... The Government that the undersigned represents, is ready to appoint the commission which jointly with the one that may be appointed by the Government of your Excellency, can proceed to fix the limits, leaving to the arbitration of Chile (this was the arbitrator chosen since 1829) the decision of the points on which both commissions cannot agree upon».

In 1863, 1864, 1866, 1868, 1870 and 1874, the Government of Ecuador insisted be-

fore the Government of Peru to obtain the fulfillment of the Treaty of 1829 and asking that the limits should be fixed in accordance with that Treaty.

This insistence in the protest both from Ecuador and Colombia makes null all pleas of undisputed possession that Perú may allege over the vast territories that she keeps and that have been the object of such constant complaints.

* * *

By the Treaty Espinoza-Bonifaz, signed August 1st. 1887, Ecuador and Perú—with the abstention of Colombia—agreed to submit their limit controversy to the arbitration of the King of Spain. On Colombia asking to take part in the proceedings, after long and elaborate preliminaries the Tripartite Convention was agreed upon, signed by Colombia, Ecuador and Perú on December 15 1894.

Ecuador is as yet lamenting the error of her Congress in not giving immediate approval to this Convention as was done

by the Congress of Peru and Colombia and, still more, to have allowed the question solved by the Treaty of 1829, to be put back at her initial start.

Don Demetrio Salamanca T. in his book on *Amazonian frontiers of Colombia*, says on this particular:

«In the tripartite conference of Lima in 1894, the juridical allegations of Colombia and Ecuador were not clearly defined nor formulated in due form. They would have been very useful to those countries in the international litigation. The ecuadorian Plenipotentiaries Drs. Julio Castro and Honorato Vasquez, seemly, were influenced by the inconducive allegations of the negotiators of 1888 and 1889, that gave as result the inexplicable treaty of May 2, 1890, which was called of García Herrera and inclined to recur to an erroneous and inaplicable arbitration, with the only purpose of annulling the Treaty of 1829 whose fulfillment is not a question of *laudo juris* that may convert in a question of contention what is mere injustice, unfairness and usurpation. Those negotiators

were so much astray and out of right, that in the minutes of their Conferences there were more boundary lines proposed than conferences were held.»

The result of this arbitration pact in which Ecuador allowed herself to be caught in the net of the astute peruvian policy is well known: the King of Spain foreseeing a war between Perú and Ecuador as a result of his award, declared himself inhibited to arbitrate.

The violent demonstrations and the mobilization of troops in both countries, caused the expectation of an armed conflict in 1910. The conflict was avoided not only by the friendly offices of United States, Argentine and Brasil, but mainly because neither the Government of Chile or the Government of Colombia would promise to support Ecuador in the event of war being declared, and the Government of the valiant and indignant people of Ecuador, presided by the illustrious martyr general Eloy Alfaro, had to sheath the sword waived to the cry of «Tumbes—Marañon or war.»

The serene and neutral attitude of Chile and Colombia, notwithstanding popular indignation against Perú in both countries, contributed to clear the atmosphere.

¿Would Perú have acted in the same way in the case of a conflict between Chile and Argentine or between Colombia and Venezuela? No.

Quite the contrary, her efforts to increase the ill-will between the nations named and to hinder their fraternal demonstrations, give reason to believe that in a similar case Perú would try to get advantage of the conflict. She would forget that in 1879, Ecuador would have needed only to side with Chile to solve at once and with small sacrifice her question with Perú and that Colombia allowed passage over her territory of armaments for Perú, giving occasion to reclamations from Chile.

* * *

The arbitration by the King of Spain not taking effect, things were brought back to the statu quo of 1905, in conformity

with an agreement signed by Ecuador and Perú.

If a complete relation was made of the reclaims and protests of Ecuador to the Peruvian Government for the violations of the *statu quo* established more than thirteen years ago, and of the discussion originated with each of this incidents, there would be matter for an in-folio in which as in the case of the General and the Sailor, quoted by Smiles, one would not know what to admire the most, if the patience of Ecuador or the audace of Perú. It is enough for present purposes to make public the present estate of relations between both countries and the manner in which Perú avoids the fulfillment of her obligations, and to relate the last incidents, as per the reports of the Minister of Foreign Relations of Ecuador in 1917 and 1918.

The representative of Ecuador in Lima señor Aguirre Aparicio in a communication to his Government on December 13, 1916, reporting on his action upon instructions received, says:

«In several occasions I have spoken to

señor Riva Agüero upon the necessity that his Government put an end to the abuses of peruvian authorities in the east, who have advanced their forces to the mouth of the Nashino river. I have expressed to him that his predecessors have given assurance that their Government has not authorized such infringement of the *statu quo*, on each occasion that I have made due representation; and that when I pointed out precisely the accomplished facts, the Prefect of Loreto always answered that *there was no garrison at the mouth of the Nashino*. I expressed that my reclamation could not be doubted and asked that this garrison should be ordered to retire, since its presence not only violated the *statu quo* but also the agreement of 1905.

«The Minister asked the Prefect of Loreto to report on this. This official after a long delay answered again, that *there was no such garrison at the mouth of the Nashino*; but shortly after this, the new Prefect señor Caballero y Lastre, on reporting on the advance upon Bellavista, said to the Minister *that there was no other garrison on*

the Nashino than the one at the mouth of the river; important detail for us and upon which I called the attention of the Minister on renewing my steps to obtain the removal of the garrison, señor Riva Agüero ALWAYS OFFERING to consider the basis and precedents of my petition.

«Following your instructions, I have reiterated my demand to the Minister, expressing the urgency of ending a situation that means a violence on the part of peruvian authorities in the east which, if maintained, would force the Government of Ecuador to send forces to that region even at the risk of new incidents between the garrisons, of which we would not be responsible, And to the end that no doubt will be alleged on the existence of such garrison on the Nashino, I have quoted the communication of the Prefect of Loreto to the Peruvian Home Minister in which is recognized the existence of military forces in the region of Napo.

«The Minister has offered to study this question *whose antecedents he does not know*, excusing himself of not having done so

until now due to the excess of public work.»

.....
The form in which the peruvian Government attended to this insistent reclamation of Ecuador, is found in the Report of the Foreign Relations Minister to the Congress of Ecuador in 1917, saying:

»It was informed to you that according to the reports of our authorities, that garrison only changed post, and *from the mouth of the Nashino went over to Rocafuerte.*»

In the report of the Foreign Relations Minister of Ecuador for 1918 a few months ago, in pages 27 and 28 we find:

»Following instructions sent him, our representative in Lima señor doctor Peralta presented on December 6th. a communication of protest against the advance of peruvians in our oriental region, advances that constitute a break of the *statu quo*.....

»On January 4th. of present year we had to present a *new reclamation and protest*, the Political Lieutenant of Aguarico having advised that the peruvian tug «Elisa»

advanced in ecuadorian possessions seemly with the intention of establishing fiscal offices, garrisons, etc., up to the point called Bellavista, on the Curaray river.»

.....
«A few days ago the Political chief of Napo-Curaray has denounced a *new attempt* on the part of the peruvian captain Manuel Curriel, in the Aguarico territories, *absolutely ecuadorian*, over which the Ecuador has had permanent uninterrupted control. The violation of the *statu quo* is complete and not to be denied.»

This needs no comment. The impartial and unprejudiced spirit will ask in wonder how is it possible that such things happen to-day in Latin América, between civilized and friendly republics? We would ask which is the law alleged by Perú—the same Perú that on seeing the triumph of Justice and Right, claims for the return of the provinces she delivered to Chile by treaty and who appeals before universal justice because Chile expulses peruvian agitators from her territories—to make use of force to invade the territories of her neighbour,

violate pacts and in face of the just protest of Ecuador, use the sarcasm of fine worded excuses and cover with the tinsel of diplomacy the web of domination in which she tries to inveigle a brotherly people.

* * *

Peru,—who cannot put forward as a title over these vast territories any other right than those she pretends to have by the Cedula of 1802 to which Ecuador and Colombia oppose not only the titles that render that Cedula null, but also the one signed by Perú in a Treaty—has always recognized and now she dares not deny, that those territories are under dispute and that on the possession and dominion of the same there must be either an arbitrating award or a direct agreement between the parties that have just rights thereon. And yet, as we have seen and demonstrated, there being as yet no sentence of adjudication and in violation of the provisory conventions of the *statu quo*, Perú makes full use OF ARMED FORCE TO OBTAIN POSSESSION

OF TERRITORIES; A FACT THAT LEADS TO THE PRESUMPTION THAT SHE DOUBTS THE JUSTICE AND VALIDITY OF HER CLAIMS AND THAT SHE HAS THE PURPOSE TO SUBSTITUTE POSSESSION AS A PROOF OF RIGHT, CLOUDING IN THAT WAY ANY PROOF OF THE TITLE THAT LATER SHE MAY ALLEGE.

This opinion is not ours, it emanates from the highest authority in the world. They are the words of the President of the United States, of the Premiers and Foreign Ministers of the Allied and Associated Governments and of the representatives of Japan and they condemn the employment of force to gain rights over disputed territories. And this «solemn warning» is not only for Europe and Asia, it applies also to América, as an universal principle that affects also Perú and is in perfect concordance with what Colombia and Ecuador have maintained in their reclamations.

This official and solemn Declaration that implies a *condemnation* of the means employed by Peru, must be fully set forth:

On January 24 of 1919, the President

of the United States, the Premiers and Foreign Ministers of the Allied and Associated powers and the representatives of Japan held a short conference and agreed on the publication and transmission by cable to all the world, of the following statement:

«The Governments at present associated in Conference to establish a permanent Peace between nations, are profoundly disturbed by the reports that reach them on the frequency with which force is being used in several parts of Europe and the Orient to obtain possession of territories, over whose just claims the Conference will have to decide.

«The Associated Governments feel it is their duty to give a solemn warning upon the fact that possession obtained by means of force, seriously injures all claims of those that have resorted to such means. This will create the presumption that those that employ force for such ends are doubtful of the justice and validity of their claims and have the purpose of substituting possession as a proof of right, obtaining the sovereignty

by coercion rather than by the preferences of race or nationality or by the natural historical affinity. In this way all evident proof of the rights to be alleged are clouded and doubts are shown about the Conference itself. From this, only unfortunate results can be expected. If they want justice they must refrain from using force and place their claims, in all good faith and fairness, in the hands of the Peace Conference.»

* * *

The post of Minister of Ecuador in Lima is held at present by Dr. José Peralta, one of the most eminent internationalists of latin America, who, together with vast culture, has a bright intellect and a clear conception of modern diplomacy. Dr. Peralta, under whom I had the honor of serving as private Secretary when he was Ambassador to Caracas in 1911, held the Foreign Relations ministry of Ecuador during one of the most difficult and dangerous epochs of the dispute with Peru and he

knows, as few others, all the aspects of the question. No other opinion can be more convincing or firmer than that of Dr. Peralta, nor can have more authority on this question, and to illustrate this, nothing better than to copy some paragraphs of the communication that under date of December 6th 1917, he addressed to the Government of Perú.

«Major Terreros that has just reached the capital of Ecuador from Iquitos, has reported that at the Aguarico there are at present forty Peruvian soldiers commanded by a captain, and there are also Peruvian detachments on the Curaray and the Cononaco. The Political Chief of the Pastaza reports at the same time about the advance of a Peruvian detachment to the mouth of the Huasaga and adds that the Political Lieutenant of Puerto Pindo on the Tigre river, don Manuel Segovia, has been threatened by the military forces of Perú that have advanced from the Corrientes up to very near that settlement. Report goes on to say that don Eduardo Montero has been appointed by Peru as

authority over that region and that he is preparing to go up to Conambo, on the fringes of the Canelos, by orders of the Prefect of Iquitos and finally that the Ecuadorian indians that go out as wage workers in the territories under peruvian exploitation, are kept by force and are not allowed to return to their homes.

«I have to hand, the communications that relate these abuses and injustices and if I do not set them forth at length here is only because I do not want to tire the benevolent attention of your Excellency.

»There is no doubt whatever about the internment of military forces of this country in our oriental possessions; a fact that is fully proved not only by the attestations of Ecuadorian authorities in the invaded districts, but also by Peruvian official documents, published, without doubt, with the authorization of the respective Ministers of State. Can the veracity of such documents be reasonably put in doubt? By no means. That is why-although painful for me to declare it-we must conclude that the *statu quo* has been broken and the

rights of Ecuador have been trampled upon in open, reiterated, and deliberate fashion.

«As I have already demonstrated, the territories of the Aguarico and the Napo belong and have been uninterruptedly held by Ecuador, who up to date, maintains authorities over all these regions. Such possession is supported firstly by the american *uti possidetis* and then by the *statu quo* several times agreed with Perú: if these territories have no possibility of ever having been reputed as *res nullius*, the occupation of a good extension of them- or *taking of possession* as it is called by Lieut Col Marquez (1) is an act of injustice and a violation of the rights of Ecuador».

We will see now how Dr. Peralta uses the same doctrine of the Supreme War Council of the Allies.

«Nobody can doubt that the first foun-

(1) In a letter published in the Bulletin of the Foreign Department of Lima addressed by Lieut Col Marquez of the peruvian army to the President of Perú in 1917, he advises that he «has been able to claim possession of the mouth of the Aguarico, where there is now a colony or military post». This is the fact alluded to by the Minister of Ecuador.

tain of territorial dominion is the *occupation*; but when this is arbitrary, unjust and injurious to the rights of another party, it degenerates in an usurpation and conquest; that is to say, in the predominance of the stronger, in the triumph of violence, in the trampling of the eternal principles of justice that direct the acts of nations just the same as those of individuals.»

«More than once this slow advance within ecuadorian territories, has been pretendedly justified by alleging the divergences between both countries as to the boundary line. Such reasoning is equivalent to maintain the absurdity that any boundary dispute—that may even be voluntarily provoked—converts the disputed territory in *res nullius* giving right to the neighboring States to be judges in their own suit, and, either by force or cunning, to fix the boundary line where they will, by merely doing it, without any respect to international law.

«Too well I know the probity and culture of the Peruvian Government to think, even for a moment, that such vulgar mea-

sure could find hearing in the high policy of a progressive and cultured country. If I note it in passing, it is because I have read certain publications supporting such an untenable thesis.

«It cannot be said that Perú finds her authority in the undefined frontiers and the protraction of the lawsuit upon the dominion of the Napo and its affluents. Such doctrine would justify every abuse and any possible usurpation. A conquering State would have but to search a quarrel with a neighbour over the boundary lines, establish possessive confusion over frontier populations, use all means to perpetuate the controversy and in the meanwhile proceed to the spoliation of the adversary.

«Could any one have the courage of maintaining that it is in the power of Chile to rightfully and gradually occupy Peruvian territory under the plea that it is done to protect the order and to attend the better policing of the frontier, and this only because there is a pending controversy over the definite determination of the bounda-

ry between both countries? By no means. If any one pretended such a thing an unanimous cry of protest would be heard from the offended people.

«Where is the reason then to justify Perú in doing to Ecuador, what if done by Chile would be cause of reproof and protest? Principles of justice are not universal? International Law does not include and protect all countries, from the mightiest empire to our new and small Republics? Why should Perú place herself above these principles enforced by the universal morals and guaranteed by civilization as elements of peace, good will and progress of the human race?»

With strong eloquence and with the graceful culture habitual to gentlemanly discussion, Dr. Peralta successfully refutes the arguments for possession alleged by Perú. He gives irrefutable proofs of her constant violation of pacts and makes a brief but powerful picture of the methods used by Perú to conquer the disputed territories. In the following paragraphs of

his communication dated March 30th 1918 he says to the Foreign Minister of Perú:

«Note must be taken that I do not use any attestation of our authorities in the oriental regions—the victims of the frequent invasions and violences of the governors of Loreto—who daily protest to my Government. To-day we see the advance in territories over which Perú never pretended any right. Yesterday we heard of the usurpation of private property, of spoliation and depredation. At other times it has been the persecution and manhandling of peaceful inhabitants of our Orient; then the hunting of Ecuadorian indians, slavery with all its horrors, the slave trade in all its repugnant nudity... Are my words exaggerated? No. There is abundance of proofs and documents that would show me true out and out; but this is not the occasion and I do not judge convenient to refer as yet to these proofs.

«In face of the cumulation of contradictions in the defense of the pretended rights of Perú; the obscurity and confusion that emanate from allegations at va-

riance with truth and logic, with justice and right, we are forced to deduct that the charge we make to this country is irrefutable. We can, then, maintain that she has constantly and without scruples broken the *statu quo*, as she broke the initial *uti possidetis*, as she has violated even the boundary lines, arbitrarily fixed by herself, as provisory limits between both countries.

«Why should we insist any longer in the demonstration of our acts of possession in the Napo and its affluents? Enough with what has been repeatedly said and based on convincing proofs, to put above any objection the right we maintain. But I will call the attention of your Excellency to a very essential circumstance of the controversy: the impossibility for a highly cultured and honest Government like the one of Perú, to accept as legitimate acts of possession and dominion in our oriental forests, the incursions of bandits that have trampled the rights humanity, to fly soon after persecuted by the justly incensed indians.

«Could the expedition of Zacarias to the region of Aguarico be claimed as an act of sovereignty of Perú? That would mean the approbation of the atrocities of that infamous gang that outdid the worse feats of slave-traders in the african aduars.

«How present between the pro ofs of possession and dominion the criminal feats of Mouron? That is equal to accept complicity with offences that civilization thinks impossible to-day, as the hunting of savages to reduce them to slavery and their public sale without respect of age or sex, in an infamous trade that universal conscience condemns.

«How can it be said that these robbers of the forest and destroyers of unprotected and peaceful hamlets, these unbridled ravishers of indian women and children, that these vile traffickers, these abhorrent murderers of our disarmed and harmless colonists, have been the official bearers of the Peruvian flag, carrying conquest to the furthestmost regions of the Ecuadorian orient?

«To say this would be to offend one of

the most progressive and cultured of the countries of Spanish América. One proof that Perú neither authorized nor approved this iniquitous expeditions (1) is found in the proposal made by the Peruvian Plenipotentiary señor Arturo Garcia to our Foreign Minister, insinuating that in the boundary Treaty they were discussing, the immediate liberation and devolution of enslaved indians would be provided. This measure was necessary, he said at that time, to stop the reclamations caused by this repugnant traffic. The expressions of señor Garcia, included in the minutes of the tenth Conference, repudiate by themselves all the atrocities committed by the bandits that have tried to shield themselves under the glorious colors of Perú.

«Once this criminal incursions are put aside, by moral principles and decency, the proofs of possession, alleged by Perú over the banks of our rivers, are reduced to the frequent armed invasions, of which we have so often protested, as by exam-

(1) But she neither disauthorized nor punished the criminals.

ple that of Carrillo in 1901 to the mouth of the Aguarico. These acts of conquering expansion, although they have had practical results but a few times, have always had the character of violation of international law and of the *statu quo* that exists between Ecuador and Perú.

«To allege as a justification of an international transgression the transgression itself, to present consummated usurpation as a proof of right legitimately obtained, would be to add sarcasm to injustice, would be to carry the insult against our sovereignty to extents far too repellent and odious.»

It would be useless to add anything to these words recently said by a competent authority, the Minister of Ecuador in Lima.

The impartial reader must judge and will be able to say if the Perú represented as a pure and harmless dove that asks protection from the chilean hawk is the same that as a sinister vulture soars over the oriental regions of Colombia and Ecuador.

Any one would say they are two different countries.

Peru against Chile

Peru against Chile

SUMMARY.—Peruvian aggressions against Colombia, Ecuador and Bolivia.—Unselfishness and generosity of Chile.—What Perú should be.—New considerations on the nation who provoked the war of the Pacific.—The boundary dispute between Chile and Bolivia in 1842.—The Treaty of 1866.—The secret Treaty to crush Chile.—Argentine help is asked.—The Treaty of 1873.—Preliminaries of the Ancon Treaty.—Critical study of clause 3rd.—Perú does not wish the completion of the Treaty.—The referendum.—Tacna and Arica according to the letter of the Treaty must be annexed.—Curious Peruvian argumentation. The propositions of Perú and Chile.—Chile insists in the fulfillment of the Treaty and Perú refuses.—Present state of the conflict.—Victory gives rights.—The new attitude of Perú in view of the allied triumph.—Perú and the United States.—The rights of the conqueror.—The direct accord.

Perú as soon as she felt independent started quarrels, provoked wars and effected invasions against Colombia, Ecuador and Bolivia (1) not taking warning in spite of being often defeated.

(1) On the 1st of May 1828, general Gamarra with an army of 6000 Peruvian troops invaded Bolivia, occupied La Paz and thanks to the internal political dissensions enforced on Bolivia the surrender of Piquiza.

In her relations with Chile whose help and friendship she begged on several occasions, never in vain, as Chile always was ready with her forces and gold to help her—she limited her characteristic aggressiveness to a war of tariffs. (1832).

On July 7th., 1835, general Salaverry, Supreme Chief of Perú, proclaimed a decree of death war to Bolivia declaring «an highly patriotical and meritorious action to kill Bolivian chiefs or soldiers.»

On August 13th of the same year, the Peruvian army, 4000 strong commanded by Gamarra, was routed in the battle of Yamacocha by the Bolivians commanded general Santa Cruz.

On January 26th. 1836. the Bolivian general Quiroz routed general Salaverry in Gramadal.

On February 7th., 1836, the battle of Alto de la Luna took place between Peruvians and Bolivians, the last being victorious. The brave and energetic Peruvian chief, general Salaverry, who was taken prisoner, was shot in Arequipa.

On October 2d., 1841, general Gamarra with 6000 Peruvians invaded Bolivia for a second time. «The Peruvian army advanced committing numberless atrocities and acts of unheard of savagery» until they occupied La Paz, where they «seized public funds, levied taxes, enrolled many young men in the army and committed depredations and violences worthy of the most barbaric conquerors». (See *History of Bolivia* by Manuel Ordoñez López and Luis S. Crespo, 1912 edition, pages 60, 261 and 263).

Chile refused the petitions of Perú only when she asked her help to attack Colombia (1828) and against Bolivia (1840). Chile made impossible the war between Perú and Bolivia (1831) and helped Perú when general Santa Cruz declared that «there was no reason to fear the small army of Perú and that the annexion to Bolivia of the departments of the south would be obtained either by soft or strong means» and invaded Perú. Finally, Chile made her own the cause of Perú in 1864, when Spain took the Chincha islands and declared war to Perú (1). Bolivia and Ecuador came also to the rescue of «the sister in danger».

The generosity and unselfishness of Chile was shown when she took the quarrel of Perú with Spain, as her own, used all

On the 18th November 1841, the Bolivian patriot general José Ballivian at the head of the Bolivian forces completely destroyed the Peruvian army in the famed battle of Ingaví, where Gamarra was killed and General Ramon Castilla, 24 chiefs, 150 officers and 3200 soldiers were taken prisoners.

(2) See the important book *Brief History of the Relations Between Chile and Perú, 1810-1879*, by Adolfo Calderon Cousiño.

her means in the fight, suffering more than any other from the consequences of the war and came out of the conflict covered with honor but profoundly shaken.

These facts should have been for Perú motives of eternal gratitude and perennial remembrance which should have been kept in mind to solve in amity and cordiality any difficulty raised between both in the future.

Perú more than any country in the world, if gratitude is not a vain word, is obliged to maintain with the other South American Republics the greatest harmony and cordiality. The armies of Argentine, Chile, Colombia, Ecuador and Venezuela met in the territory of Perú to battle for her liberty and that territory should be the holy ground of american confraternity, the calm beach where the waves of resentment should die, instead of being, as it is now, the focus of international intrigue and of the projects of imperialism and division.

Perú, a nation with immense unexplored territories, ambitions and covets her

neighbours lands. Rich to the extent of not being able to work all her fountains of wealth, she wants to grasp the properties of the surrounding countries. Such is this beautiful country, worthy of better destinies, where among noble and patriotic figures we see sinister figures like Riva Agüero, Torre Tagle, La Mar and Gamarra; where the ideas of earnest and well meant progress stagnate in the swamp of petty politics. Such politics have wasted the Republic with a hundred revolutions in less than a century, and have carried her to mad international, financial and political adventures that have put in imminent danger her liberty and her autonomy. If the history of Perú is gone through, we will see that, as if following a tradition the Governments of Perú in many occasions have asked foreign intervention to solve internal questions, seemly forgetting that the hands that are raised imploring protection often are imprisoned in the gyves of slavery.

Even to-day, with «supreme cleverness» according to the «Comercio» of Lima, Pe-

ruvian diplomats knock at the door of the Peace Conference, of the White House and of the future League of Nations, begging for an intervention that is repugnant to the simplest principles of patriotism and racial solidarity. They want an intervention in the question of Tacna and Arica, dispute that to be solved requires only a change of action on the part of Perú. This problem is to be faced without jingoism or political sentimentalism and should be frankly treated to reach a solution, in accord with Chile, within what has been stipulated by the Ancon Treaty.

Perú is called by geographical position, wealth, vast territories and culture to be a welding center of affections and to exert moral authority in the fraternal and harmonic whole of the Republics who have given her so many proofs of love and generosity. She has been instead, pushed by mad ambitions (1) result of petty politics

(1) It is to be thought that the Peruvians inclination to conquest and her ill luck in her bellic enterprises, is incasic atavism. Don Luis Barros Borgoño in his beau-

and constant agitation, a model of a despotic and imperialist nation, keeping up quarrels and disputes with all her neighbours and often recurring to war, to maintain her spirit of conquest. At the same time the intellect and cleverness of her politicians has been exerted in a kind of peripatetism of subtleties and sophisms, to defend—in discussion—her international adventures.

The consistent and permanent methods employed by Perú in her relations with Colombia and Ecuador, as shown in the

tiful book «*Course of General History*», page 245, has this quotation, referring to the campaigns of conquest by the Incas in araucanian territory: «Ercilla relates that the powerful inca was.

A man that seemed always overfond
of new lands to be proud conqueror
And hearing of Chile, as her own
He wanted; and sent warriors therefor.

and goes on to say:

But things were otherwise addrest
As his men on coming to the field
Were forced to surrender and to yield
Losing lives, and pennons and conquest.

preceding chapters, must serve to form the elements of judgement on the controversy between Chile and Perú, specially as regards the responsibility in the provocation of the conflict.

Neither Colombia or Ecuador have made any propaganda nor have they cried out for justice against Perú, who on her side has had good care not to touch these questions in public allowing the belief to grow that she maintains excellent relations with her northern neighbours.

It is not to be wondered then, that Perú appears to the other nations of America, judging by her artful propaganda, as a modest and unoffending country, peaceful and anti-militarist, whose wealth and prosperity have made her a victim to Chilean ambition if not to chaotic Bolivian politics and that—judging by appearances—some writers give *a priori* to her the reason or part of the reason in the Pacific question.

Ecuadorians and Colombians that know and have suffered Peruvian imperialism, are not surprised by the assertion that

Perú provoked the war of 1879 against Chile, by means of Bolivia, in the same way that Germany using Austria as a tool, let war loose on Europe (1).

Whoever knows the action of Perú in

(1) Under date of August 6th 1873, the Peruvian Foreign Minister, Riva Agüero, wrote to don Aníbal La Torre, Peruvian Minister in La Paz, giving him the following instructions:

«So what Bolivia needs, is not to lose any more time in useless delays that have no other result than allowing Chile to get enough armaments. If the Bolivian Government understands his interests, if he does not want to lose a part or all the litoral, he *must say soon his last word regarding the Treaty of 1866 and on the Corral-Lindsay Convention. These pacts must be definitively broken*, either by disapproval of the one by the extraordinary Assembly, changing at the same time the other on account of the unsurpassable difficulties it presents in practice, or taking any other means that give the same result. Care must be taken nevertheless *that the rupture of relations is not made by Bolivia but that Chile is forced to do it.*

«Once relations are broken and war declared Chile cannot obtain delivery of her armored ships, and not having enough strength to attack with advantage, would be forced to accept the mediation of Perú, *that if needful will be converted in armed mediation*, if the forces of Chile attempt the occupation of Mejillones and Caracoles.

«To these arguments, your Excellency can add others that doubtless will decide the Government of Bolivia

her disputes with Colombia, Ecuador and Bolivia, and the conquering airs she has put on with these Republics, will not need further proof to find truth in the opinion of the Chilean writer Dr. Augusto Orrego Luco, when he says:

«The war to which Perú was pushing us was a war of conquest, because the conquest of our territory is the only possible and logic explanation of the unfounded aggression to a country with which Perú had no question that could give her the needed pretext» (1).

Be it by the ruses and intrigues of diplomacy or-as expressed by Marshal Sucre—«venturing to try the force of arms, Perú, since raised to independent estate by foreign effort, has shown a heedless tendency to conquest and usurpation».

The Marshal of Ayacucho in his Messa-

to adopt the line of action indicated. *I refer myself to the certitude we almost have of the adhesion of Argentine to the alliance.*» Gonzalo Búlnes, *Causes of the war between Chile and Perú*, page 61.

(1) La Nacion of Buenos Aires, February 4th 1919.

ge to Congress in 1828, says: «From some time back Perú has conceived the idea of usurping and dominating Bolivia, and lately has tried the attempt.»

General Santa Cruz in his Message to the National Assembly of Bolivia in 1831, says:

«Government, always anxious to keep peace, appointed a Plenipotentiary Minister in Perú, who made proposals for drawing up treaties of defensive alliance, commerce and boundaries, based on reciprocity and justice. Shortly before the Desaguadero conference, that Legation had made me know the criminal project of the Peruvian Government to ruin Bolivia, having gone so far as to make proposals of complicity to our Minister and giving him details of these projects.» (1).

Among the papers of the eminent Chilean historian, don Gonzalo Búlnes, together with other highly important documents, there is a communication that he

(1) HISTORICAL PAGES.—TACNA AND ARICA—by José M. Valdivia P., La Paz. Litografía e Imprenta Moderna, 1919, page 27.

kindly showed me and whose authenticity cannot be doubted. In this official communication, dated in Buenos Aires the 26th April 1879, sent by don Anibal V. de La Torre, Peruvian Minister in Argentine, to the Peruvian Foreign Minister Riva Agüero, the Peruvian diplomat refers himself to his communication of 26th March (before the start of the war) and speaks of the offer made to Argentine in exchange of her support against Chile. An outlet to the Pacific was to be given to Argentine to the north of Chile, between 24.30° to 27° lat. He says that such a concession would place Argentine on a footing of absolute hegemony and greatness, destroying the continental equilibrium, so he had to point out that as a compensation, Perú should receive the Departments of La Paz, Cochabamba and Oruro in the south and Guayaquil in the north.

This important document, that can be read in the book: *«The secret Treaty of 1873, Answer to the book by Irigoyen on this matter»* that will be shortly published by don Gonzalo Búlness, gives irrefutable

proof.: 1st: on the limits reached by Peruvian imperialism; 2d: that Perú in 1879 initiated a war of conquest of Chile, whose dismemberment she was trying to obtain 3rd: that in spite of the secret Treaty of 1873 and of her pushing Bolivia to the war with Chile, Perú was betraying her ally; and 4th: that if the predatory plans of Perú had found echo in Argentine the conflagration would have embraced all of South America throwing the continent in horrible chaos.

The causes of a war are always complex and have historic roots and the incident that causes the rupture is often a mere pretext. Such was the offering of the Crown of Spain by general Prim to the Hohenzollerns that caused the franco-prussian war; the sinking of the Maine that started the war of the United States with Spain and the murder of archduke Ferdinand in Sarajevo, that gave the needed excuse for the greatest war in history.

So, to have complete grasp on the causes of the war of the Pacific, an impartial and full knowledge is needed of the his-

tory of Chile, Perú and Bolivia, since 1842, year in which discovery was made of the guano deposits in the Mejillones region, up to the 1st March 1879, date of the declaration of war of Bolivia to Chile, the 5th April 1879, when Chile declared war to Bolivia and Perú and the 6th April, when Perú declared war to Chile.

For this, we need resume the principal facts previous to the war, that will serve as starting points to form impartial judgment.

In 1842, upon the chilean discovery of guano deposits in Mejillones and the valuation of this fertilizer in the european markets, a boundary question started between Bolivia and Chile.

Chile had been in quiet and constant possession of the Atacama desert and littoral up to the 23° south latitude and her men and money had been employed in discovering and exploiting the guano. In face of the Bolivian reclamation alleging in 1842 that her southern boundary reached to the 26° south latitude, Chile maintained her rights, based on «sound titles».

This question passed through various incidents up to 1863 when the controversy reached a critical condition and the Congress of Bolivia by law of June 5th. authorized the Government to declare war on Chile.

At this time came the war of Spain against Perú, to get possession of the Chincha island (rich in guano deposits); Chile at once coming to the rescue. All peoples were then united against the common enemy.

Under this fraternal feeling, Chile and Bolivia agreed on the Treaty of 1866, in which both cede in their rights «based in the sound titles they believe to have»; they fix their international limit in the 24° south latitude «from the Pacific to the oriental limits of Chile» and establish a common administration to collect by equal shares «the duties of exportation paid by the guano and minerals from the region between the 23° to the north and the 25° to the south».

This Treaty, although favorable to Bolivia, as Chile ceded from the 23° to the

24º, was a hotbed of discussions and quarrels. The difficulties were seemly solved by the Lindsay-Corral Convention signed the 5th December 1872, accepted by the Congress of Chile but whose acceptance the Congress of Bolivia delayed.

On that year don Manuel Pardo ascended to the Presidency of Perú, country that was in a disastrous economical situation. One cause for this situation was the competition that the private production and sale of nitrate as fertilizer made to the State trade in guano.

Perú tried to monopolize nitrate by means of various combinations, but the project failed, due to the discovery of nitrate in Antofagasta and Taltal by the Chileans.

Under these circumstances the secret Treaty of 1873 was signed between Perú and Bolivia establishing the defensive alliance of both countries. According to this pact, Bolivia was left under a kind of tutorship of Perú and, as facts demonstrated after, placed Perú as the arbiter of the

situation and in aggressive position as regards Chile.

The fact that this secret Treaty of February 6th aimed to the annihilation of Chile, is conclusively demonstrated by the instructions given by the Peruvian Foreign Minister Riva Agüero to don Manuel Irigoyen, Peruvian Minister in Buenos Aires who was trying to obtain the alliance of Argentine against Chile.

Some Peruvian writers present this secret treaty as an isolated fact, without referring to its history, and try to demonstrate that its clauses do not allude to Chile and consequently that it did not involve any menace against this country.

This is childish quibbling. If there were no other proofs, like the express declarations of the Peruvian Government that its object was to impose to Chile a rapid solution (1), there is the notorious fact that Perú asked the Argentine alliance and the confession stamped in the communication sent by the Foreign Relations Minister of

(1) Before delivery of the armored ships Chile had ordered from England.

Perú, under date of 14th April 1874, to his representative in Buenos Aires, saying:

«The means to avoid this alliance (of Brasil and Chile that would counterbalance the alliance of Perú, Bolivia and Argentine) and *consequently of leaving Chile isolated* in all her questions, according to my opinión and that of the Government are to RESTRICT THE ALLIANCE WITH ARGENTINE AND BOLIVIA ONLY TO THE QUESTIONS OF LIMITS OF THESE COUNTRIES WITH CHILE, meaning the questions that may crop up between the contracting parties and Chile, stating in the document that will ratify the adhesion, than this alliance will not subsist as regards questions either political or territorial that may arise between the Confederacy and the Empire (Brasil).

«As regards the Peruvian petition to Argentine to come into the Alliance, the Argentinian deputy don Guillermo Rawson, said at the time:

«Chile shows aggressiveness to Bolivia and Argentine *as respects boundary questions*. But Perú that neither has nor can

have, such questions with Chile, has initiated the negotiations of this Alliance Treaty only under a spirit of rivalry and by ambition of the maritime supremacy in the Pacific. Perú tries to get allies to keep down her rival and to humiliate her in case of a war. Bolivia in self defence and following the traditional subservience that her policy has demonstrated to Perú, does not hesitate to come into the league, and not having other outlet to the sea than her sorry possession in the Pacific, needs a maritime power to protect and cover her in a probable case of war over territorial possessions.

«Under these circumstances both countries remember that we have also some boundary discussions with Chile and offer us their alliance, inviting us to share their fate in the adventurous road they are taking. We would then accept, without conditions, a pact formed under the inspirations of interests that are not ours, and we would conspire darkly and in secrecy against the most progressive Republic of South America, our neighbour, our sister in the War

of Independence, our friend of today, since we maintain with her friendly political relations and very close commercial relations».

This stern rebuke of one of the prominent public men of Argentine, is the most eloquent condemnation of the Peruvian policy that stirs discord in South America. It forces us to reflect on what would have been the fate of South America if Perú had wielded the power of Brasil, of Argentine, of Chile or of the first Colombian Republic...

Bolivia succeeds sometimes in throwing off Peruvian influence, as in 1873 when in spite of Peruvian agitation against Chile and of the secret Treaty—even foreseeing the coming war—she started negotiations with Chile with the object of «guaranteeing peace by suppressing all cause of divergence» an agreeing on the Treaty of August 6th 1874 that annuled that of 1866.

That Treaty provided that the limit between both countries should be the 24° south lat; suppressed the partition system except over the guano under exploi-

tation or to be discovered in the territory that had been common property; Chile renounced to the rights over the export duties on minerals between the 23 and 24° and Bolivia pledged herself *not to augment the taxation on chilean capitals or industries during twentyfive years*, maintaining in service as international ports those of Antofagasta and Mejillones. Finally it was agreed to arbitrate any divergencies arising over this Treaty.

The point of view of Chile in signing this Treaty, as expressed therein, was, after the «guaranteing of peace», to give assurance to the considerable chilean capital invested in the mining region of Caracoles and in the nitrate enterprises of the coast.

The Compañía de Salitres de Antofagasta, chilean firm with head offices in Valparaiso, that had bought the concessions of Ossa and Puelma, of the Atacama Desert Exploring Co. and of Melbourne Clark and Co., had several lawsuits and reclamations with the Government of Bolivia which were adjusted in November 1873 by an agreement under the provisions

of which the Company would be exempted of all fiscal or municipal taxation from 1874 to 1889. In this way the business of that Company had the double guarantee of this agreement and of the Treaty of 1874.

Besides this Company, there were many others that, with the chilean capital invested in mining and nitrate production, in ports and roads, had given civilization and progress to that abandoned region. From 93 to 95 per cent of the population of the littoral was chilean.

In 1878 Bolivia was under the dark tyranny of Daza, who enacted a law fixing a minimum taxation of ten cents for every quintal of exported nitrate.

As this law, of 14th February, went openly not only against the private agreement of 1873, but also of the public Treaty of 1874, the board of directors of the Company asked the protection of the Chilean Government who ordered his Chargé d'Affairs, señor Pedro N. Videla to initiate before the Bolivian Government in «writing and without abandoning the tone

of the most perfect courtesy» the corresponding reclamation to obtain the repeal of that law.

After this the following facts happened in succession:

Communication of the Chilean Chargé d'Affairs, July 2d. 1878.

Opposition of the Government of Daza which desired the war (1) to repeal the law and personal declaration of the Finance Minister to señor Videla expressing that «the concessions of the Company had no legal basis and could be annulled».

Communication of the Government of Chile to Videla on November 8th. ordering him to declare to the Government of Bolivia, in view of their delay in answering, that «their refusal would place Chile in the situation of having to declare null the Treaty of Limits» as the suppression of the partition system to the south of the 23° south had been compensated by the exemption of taxation for 25 years to chilean persons, capitals and industries.

(1) See vol. II of the *War of the Pacific* by Ahumada Moreno.

Answer of the Bolivian Foreign Department on December 13th to the communication of July 2d, stating the reasons the Government had to «order the faithful execution of the law enacted by the National Assembly on February 14th 1878».

On the 17th December the Government of Bolivia orders the Governor of Antofagasta to force the Chilean Company to pay the tax from the 14th February, date of the law.

Chile proposes arbitration by communication of 3rd January 1879. The Government of Daza fixes as previous conditions that the law is to be put in practice before arbitration.

On January 11th, the Governor of Antofagasta orders that «Jorge Hicks (1), Manager and representative of the Compañía de Salitre y Ferrocarril de Antofagasta be reduced to prison and taken to the public jail as being in debt to the Fiscal for 90848 bolivian pesos and 13 cents».

The Manager escaped and the Company suspended work leaving 2000 men idle.

(1) English citizen.

On February 1st. the Government of Bolivia declares abolished the concessions made to the Nitrate fields held by the Company, sending at the same time Reyes Ortiz to Lima to ask that the secret Treaty be put into effect.

The Chargé d. Affairs of Chile in his communication of February 8th—kind of ultimatum—asks Bolivia to answer within 48 hours if she accepts the arbitration on the new situation created by the decree of February 1st. The Bolivian Government did not answer and on the 12th of the same month the Chargé d. Affairs Sr. Videla declares the Treaty of Limits broken and asks for his passports, that were sent him on the 15th. In his last communication the Chargé d. Affairs of Chile resumes the attitude of his country in this way:

«The Treaty of August 6th 1874 has been broken by Bolivia not fulfilling the obligations it provides, and therefore Chile regains the rights that she legitimately aduced before the Treaty of 1866 over the territories alluded by that treaty. Consequently the Government of Chile will

exert all the acts she thinks necessary to protect her rights and the Supreme Government of Bolivia will see in these acts only the logical results of the rupture he has provoked and of his reiterated refusal to find a solution of justice, equally honorable to both countries».

Then came a decree of the Bolivian Government putting to auction the properties of the Nitrate Company and the Government of Chile to avoid such sale ordered the occupation of Antofagasta, which was occupied the 14th February by forces from a chilean flotilla.

The four landing companies were received by the chilean population with the city covered with flags. The Bolivian Governor having only 40 policemen at his orders, limited himself to formulate a protest, retiring to the house of the Peruvian Consul from where he went inland to Caracoles, where he was routed after a short exchange of shots.

General Daza proclaimed the country in danger and called the army to the field; ordered the confiscation of all chilean pro-

perty, specially in Corocoro; the expulsion of all chileans from Bolivia and finally declared war to Chile the 1st of March.

Meanwhile the attitude of Peru was ambiguous; she wished the war and was afraid of it; she did not clearly see her maritime supremacy; stringed Chile along while she tried to get the Argentine alliance; pushed Bolivia while she sent Minister Lavalle to Santiago—a very clever man—to gain time to repair her ships and buy new ones while peace lasted.

The attitude of Peru would have been fortunate and noble if she had accepted the part of friendly mediátor between Chile and Bolivia and if she had avoided the war with an impartial conduct.

The Government of Chile who desired peace, asked the mediation of Peru. The Chilean Plenipotentiary in Lima received the following instructions from the President of Chile under date of 21st February.

«If in this question Peru refuses to be carried along by the impulsion of a hatred

that cannot be justified, she will fulfill a high and noble mission. We have not seized the seaboard as bucanears; we have been forced to it by the necessity of protecting our injured rights and because the rash conduct of the Bolivian Government has closed all roads to other solutions. On adopting this decision, enforced by hard necessity, we will always remain open to accept any solution that will reestablish relations between Chile and Bolivia. To propitiate such a high attainment is the mission of Peru, by reason of her position and close relations with Chile and Bolivia.

«Although we are as yet very far from the solution of the conflict between our country and Bolivia, I think that if we seize the seaboard it will be impossible for us to leave it again. The population of that territory—as you know—is almost wholly Chilean, and so are in their entirety the interests that exist there. We must add that the cession that was made to Bolivia of that territory was never accepted by public opinion in this country. To give back to Bolivia the territory between the

23 and 24 degrees, would be considered here as the delivery to a foreign power of one of our provinces.

«The only solution would be an agreement that would leave us as owners of the territory against money compensation. This would be the only solution that would place on cordial and firm footing the relations between both countries.»

In the meanwhile the Chilean Government had heard of the existence of a secret Treaty, although its contents were unknown, as neither don Abelardo Nuñez influential Chilean gentleman residing in Lima or Minister Godoy could obtain a copy.

When Minister Lavalle reached Valparaiso, a patriotic meeting was held in which it was resolved: «Not to accept the mediation from Peru while her Government does not break the offensive pact signed with Bolivia against us and laying aside bellic preparations she manifests a real wish of keeping neutral in the present conflict with Bolivia».

Lavalle reporting to his Government on the attitude of the Chilean people said:

«They suppose treachery on our part in presenting ourselves as mediators between Bolivia and Chile, when we are pledged to follow the first in her hostilities against the second».

The Government of Chile asked Minister Lavalle about the existence of the Treaty and as this crafty diplomatist denied the existence of the pact, the Chilean cabinet, where predominated an earnest desire for peace, went on presenting to the Peruvian Minister proposals of adjustment which did not give results.

Then, in view of a communication from, the Minister of Chile in Lima, señor Godoy, stating that the President of Peru had said to him that he was linked to Bolivia by a secret alliance treaty, the Chilean Government decided to take a definite step.

The telegraphic message of Minister Godoy said:

«March 21st.—President told me last night could not take decision having treaty with Bolivia; he would call Congress for decision and ask Lavalle to explain to our Government. Commission to Lavalle is eva-

sive to gain time. War preparations and public exaltation going on. Think you must insist immediate declaration; if not forthcoming ask passports.»

As Peru was not decided as yet to declare her neutrality or to give a frank explanation, the events precipitated themselves: In March the Government of Chile asked in secret from Congress authorization to declare war to Peru and Bolivia; Lavalle put an end to his mission on April 3rd and on the 5th of the same month the Chilean Government, empowered by Congress, declared war, which was followed next day by the declaration of Peru that the *casus federis* contemplated in the secret treaty of 1873 with Bolivia, had arrived.

One of the most serene and impartial historians—among the many that have studied in detail this preliminar period of the war, don Gonzalo Búlnes, says:

«I have tried to show clearly the attitude of Pinto, Santa Maria, Varas and Concha; to rememorate the alternatives of the duel between public opinion and a considerable part of the government officials, so that

the publicists that get their inspiration in truth, will not say again that the war was a trap prepared by Chile to take possession of Tarapaca and the Bolivian seaboard... In reality this was a war prepared by Peru since 1873; accepted and decided by her in February 1879; resisted and strongly opposed among us by men that were at the front of our Government, in the first line of our political and social life.

«I have yet to make clear that Canevaro could not obtain the warships he tried to buy in Europe and that Minister Latorre failed in Buenos Aires in obtaining the Argentine alliance or the subsidiary financial help he was asked to get. With this double failure the contending parties went to the conflict with the naval elements they had at the beginning of the war.»

If all these historical facts are not enough to show Peru as the instigator of the war against Chile, logic demonstrates with overwhelming force that Chile—a nation that has taken rank in America by her gravity and good sense, by the coolness and serenity of her policy,—could not wish the war

and less provoke it, on account of the inferiority in which she was as a belligerent country in face of her two adversaries. The following comparative data are the most convincing witness of the then existing balance against Chile:

Chile: 1,500,000 inhabitants; \$ 18,000,000 public revenues; 2,000 men of standing army.

Peru: 2,000,000 inhabitants; \$ 30,000,000 public revenues; 4,000 men of standing army.

Bolivia: 1,200,000 inhabitants; 20 millions public revenues; 2,500 men standing army.

This means that a million and a half were to struggle against over three million; that a revenue of 18 millions had to face one of fifty millions and an army of 2,000 men had to oppose of 6,500.

If account is taken that Bolivians are one of the most strong and soldierlike races and Peruvians are courageous and daring, we will understand that although the Chileans are impetuous and sturdy, the inferiority of Chile was evident and only a coun-

try of mad adventurers could wish and provoke a war under such circumstances.

Some will say that Chile had the naval supremacy. Let us see how she was placed:

Chile at the beginning of the war had two frigates «Blanco Encalada» and «Cochrane»; 4 corvetes «O'Higgins», «Chacabuco», «Abtao» and «Esmeralda»; one gun boat «Magallanes» and a goelette «Covadonga». A total of 9,337 gross tons and 55 guns.

Peru had: 3 monitors «Huáscar», «Manco Capac» and «Atahualpa»; 1 frigate «Independencia»; 1 corvette «Union» and 1 gun boat «Pilcomayo». A total of 7,302 gross tons and 44 guns.

This inferiority of the Peruvian navy was more apparent than real, as the Peruvian ships were in better condition and, as the war demonstrated, the Chilean navy was outmatched in velocity. The Huáscar had for some time the run of the whole chilean coast, thanks to its velocity and the ability of its heroic commander.

Moroever Chile had not a single fortification worthy of the name, while Callao

was powerfully fortified and gunned, besides Arica and the «inexpugnable» ridge of Los Angeles (1).

So that, even not taking into account the historical facts which prove that Peru deliberately provoked the war of the Pacific, and considering only the aggressiveness and imperialism that have marked Peru in her relations with Colombia, Ecuador and Bolivia and the evident inferiority of Chile in 1879 with respect to her adversaries, we must conclude that Peru, in harmony with her history, was the cause of the war.

This truism cannot be accepted by a Peruvian writer, just the same as we cannot expect a german politician to recognize that Germany started the European con-

(1) «When this unfortunate war started THE PERUVIANS DID NOT DOUBT THEIR SUPERIORITY BY SEA AND LAND.

«Their navy, including their famed Huascar, was as strong as that of the rival Republic. By land she had stronger forces; she had allies and apparently was less exposed to sea attacks than Chile» (Editorial from The Times of London.)

flict. The verdict in such cases is given by impartial historians.

I have no intention of recapitulating the events of that war in which both sides gave ample proof of impetuous courage, self-sacrifice and military qualities; in which heroism was seen everywhere and blood ran in torrents. The few events I will recount are those that serve as basis for the present dispute.

The war of the Pacific can be divided in two epochs or campaigns: first from the rupture of hostilities to the capture of Arica by the Chilean army on June 7th 1880, as a consequence of the battle of Alto de la Alianza, fought on May 26, in which the allied army was completely routed. Second from that date to the signature of the peace treaty in October 20th 1883, two years and nine months after the occupation of Lima by the Chilean army.

The divisory line is marked by the mediation of the United States, by the peace

conferences of Arica, and by the retirement of Bolivia from the war, that was henceforth waged by Peru alone.

Don Jose de Canalejas y Mendez, considering the meaning of the Guayaquil Treaty of 1829, says:

«All authors recognize the special value of the negotiations that precede a treaty. Heffter considers them as the fountain of International Law, saying «the richest source of international law is without doubt found in the international conventions *with their preceding negotiations*. (Le Droit International de L'Europe, 9). Fiore on his part affirms that «the spirit of any provision (on interpreting a treaty) will be determined by taking into account its causes *as resulting from the discussion relating to the stipulated pacts and contained in the minutes and preliminary work* that preceded the drafting of the Treaty» (op. cit. 694). Pradier Fodéré laying down a general doctrine considers that one of the means to understand the spirit of treaties is the examination of «the protocols, minutes of ne-

gotiations and the various writings emanated from the negotiators.»

Vattel says: «We can pledge our faith just as much by implication as expressly, it being enough to have pledged our faith for that pledge to be an obligation.. Implied faith is founded on tacit acceptance and this is deduced from a just consequence of our acts.» (*Droit des gens*, lib. II, ch. IV, 234).

For these reasons it is necessary for interpreting the Ancon Treaty and its spirit, to know the peace negotiations that preceded it.

On October 22, 1880, Peace Conferences were initiated on board the american ship *Lackawana*, presided by the Ministers of the United States to Chile, Peru and Bolivia, Messrs Thomas O. Osborne, Christianity and Adams and with the assistance of delegates from the three countries at war.

The Chilean representatives demanded AS ESSENTIAL CONDITIONS OF PEACE, among others «the cession to Chile of the territories that lie to the south of the Camarones

valley—that is to say Tarapacá—from Peru; joint payment to Chile from Bolivia and Peru of 20 million pesos; retention by Chile of the territories of Tacna, Arica and Moquegua until all the obligations of the treaty would be fulfilled and lastly, obligation taken by Peru never to fortify the port of Arica, which would have in future an exclusive commercial use.»

Commenting on these conditions that were considered as a form of cession of Tacna and Arica, as Peru could not pay the twenty millions, four of which must be paid at once, don Anselmo Blanlot Holley says: «Don Anibal de Latorre, Peruvian Minister in Buenos Aires and the soul of the defense of Peru in America, judged the conditions set forth as follows:

«This purpose is no other than the Chilean aim of retaining Moquegua, Tacna and Arica...

«As from an undefined possession to a definite one, there lies such short distance, to ask for what cannot be given is the sure means of seizing to morrow what cannot be had to-day without protest.»

The peruvians did not accept these conditions, and as Chile declared that they were unalterable, the negotiations were broken, the conferences were terminated and the war went on with various campaigns favorable to Chile, until Lima was occupied by the Chilean army on January 17th 1881.

At measure that Chile consolidated her triumph, with great sacrifices of men and resources, her exigencies naturally grew.

It was a logic conclusion that the more the war was protracted the harder would be the peace conditions for the loser of the war. That is why, what the Government of Peru said in 1901 in a diplomatic circular communication regarding this question, is very true:

«The victories gained by Chile after the conferences of the Lackawana (1880) raised higher ambitions, and a year later, since 1881, the cession of Tacna and Arica was an exigency presented as condition *sine qua non* for peace, in the negotiations started during the two following years.»

In the meanwhile as Peru obtained the

mediation of the United States to take an interventionist character, there were new conferences in which Chile, even under the political pressure of Mr. Blaine and of his mouthpiece Mr. Hurlburt, insisted on her essential conditions to make peace: «Cession of Tarapaca and occupation of Tacna and Arica for ten years, at the end of which term, Peru would pay 20.000,000 pesos. If payment was not made at the fixed time, Tacna and Arica would *ipso facto* pass under the dominion of Chile».

In September 1882, Mr. Cornelius A. Logan, Minister of the United States in Santiago, authorized by Chile, started new peace negotiations on the basis of «unconditional cession of Tarapaca and sale of Tacna and Arica in ten million pesos» (1).

(1) «The clause of sale of Tacna and Arica in ten million pesos was suggested to Chile by the American State Department by means of his Ministers Trescott and Logan, to armonize the solution of the Pacific war with the conclusion of the war of Mexico with the United States, in which the States paid a money compensation against the final annexation of Lower California, New Mexico and Arizona.»—Gonzalo Búlnes, *La Nacion de Buenos Aires*.

This is the moment to consider the situation of Peru at that time. To avoid long descriptions or one-sided commentaries, I prefer to use the opinions of the United States Ministers in Lima and Santiago and of a distinguished peruvian, son of one of the signers of the Ancon Treaty.

A document which gives the best idea of the terrible situation of Peru at the time, and of the chaotic state of the country thanks to the unlimited ambitions of the leaders that were fighting for supremacy—situation in face of which the wise and prudent administration established by the Chilean occupation forces was the only guarantee of order and respect—is the reserved and «strictly confidential» communication addressed to his government on May 4th 1881 by the United States Plenipotentiary in Lima, Mr. Isaac P. Christiancy.

This exceptionally important document has been published, under the name of «Diplomatic adventures» by the chilean publicist Sr. Nicanor Molinare in the Santiago newspaper La Union during the

first fortnight of June 1919. I take some quotations from that publication:

Mr. Christiancy, after a strong criticism of the social condition of Peru where «the working classes are depressed and without hope of redemption» and among the directing men «there seems to be no honesty of principle and even no idea of the patriotism that goes even to self immolation and that is essential for the administration of a honest and true Government», goes on to say:

«In a word I would not advise to the United States or to any other cultured people to take any participation in any of the South American republics *unless they take a controlling share. This they can have in Peru if they decide to take it.*

«The spirit of the people is favourable to the United States. *The protectorate of the United States or an annexation would be received with joy...*

«*Peru in the hands of the United States or under her Government would very soon be again one of the richest countries in the world.*

«I will not trouble with geographic des-

criptions, that are easily obtained if you need them. *The country is big enough to make five or six states*, without taking into account certain regions of Peru that are too well known. The eastern slopes of the Andes, along the upper branches of the Amazons constitute one of the richest agricultural regions in the world; timbered with the most valued trees and producing all that a tropical climate can give. That region is at present inhabited only by savage indians and I merely repeat the opinion of geologists and well informed travellers when I say that there are yet in Peru gold and silver mines far richer than in any other country of the same surface in the world. *If this belonged to the United States* inside of two years it would eclipse California, Nevada, Colorado and all the mining districts along the Rocky Mountains in the production of precious metals.

«Fifty thousand energetic north americans would dominate the Peruvian population and would make of Peru an American State.

«With Peru under the Government of our country, we would dominate all the other

south american republics and the Monroe Doctrine would become a fact: great markets would be opened to our products and manufactures and a wide field would be opened to the enterprise of our people.

«It does not lay with me to express if these advantages are enough to put aside the *wise traditional policy of our Government*. I satisfy myself with submitting the question to the consideration of my Government who will decide on it.

«If Peru was close to the States our countrymen would soon relieve our Government of all responsibility by taking possession of the country and asking in due time her admission to the Union.

But as a private individual, *I must declare my great repugnance to the idea of her incorporation as a part of our Union, until the american idea permeates the population. I would not wish for more elements of discord until we have ordered and assimilated those we already have.»*

Señor Molinare in his comments on this communication says: «To show that our way of judging the working of the yankees

in Peru is not unduly hard, we will quote the opinion of the great New York newspaper The New York Herald of 26th January 1882, unimpeachable publication that says the following about Mr. Christiancy and his annexionist project:

«In the meanwhile—says the mentioned newspaper—all the american diplomatic representatives in the West Coast of America, excepting Mr. Osborne the Minister in Chile, *seem to have lost their heads*. The Peruvian people was excited, and Mr. Christiancy in Lima, after having acted for a short time as an American, converted himself into a Peruvian and as soon as Mr. Blaine was appointed Secretary of State, he communicated to him, under the strictest secrecy, *a project for the annexation of Peru* that seems to have caught the fancy of Mr. Blaine. This message of Mr. Chritiancy is the most curious of the collection. After describing the absolute incapacity of Peru to face Chile, the impossibilty for the Peruvian people to form and maintain a Government and the deep and complete corruption of all social cla-

sses, from the higher to the lowest, he proposes that the United States assume the *protectorate of Peru with the aim of annexing her later*, admitting her to the Union, but not before a term of ten years. It seems that the more Mr. Blaine read the message of Mr. Christiancy, the more he liked it.» (1).

The Peruvian publicist señor Jose Santiago Rey Basadre, depicts the terrible situation of Peru and referring to the Conference of Angol, he says:

«On September 15th took place the memorable interview, which was initiated by

(1) The Protocol signed in September 20th 1881, by the Peruvian Foreign Minister don Manuel Maria Galvez and Mr. Stephen A. Hurlburt, United States Minister in Lima, by which the Government of Perú gave to the United States the faculty of establishing coal deposits in the port Chimbote and all the facilities necessary for the provisioning of her naval and merchant ships and for *taking station at that port*, is one of the results of the ideas of Mr. Christiancy. Señor Molinare says in the quoted publication: The successor of Mr. Christiancy, Mr. S. A. Hurlburt signed with don M. M. Galvez the *Protocol of Chimbote*, curious diplomatic document that made the United States owner of that port for eternity... That protocol is the acceptance, the beginning of the realization of the protectorate, or rather *annexation*, advised by Christiancy.»

the north american diplomatist (Mr. Logan) by stating: *that Chile wished the cession of Tarapaca and the purchase of Tacna and Arica; that she was already in «pourparlers» with Pierola and that the Dictator would give whatever was asked. The United States, he said, cannot recognize other government than the constitutional one formed by señores Garcia Calderon and Montero, but at the same time they cannot do anything to hinder the pretensions of Chile. It is true that the policy of the United States has changed with the death of Mr. Garfield and the change of Mr. Blaine, and that to-day, under the conditions obtaining in Peru, with no sea-board, no money, scarce troops confined in the ranges, she cannot prolong a useless resistance, however heroic. To avoid difficulties I present this memorandum whose summary is: sale to Chile of all the territory up to the Sama river, leaving to Peru the guano of the Lobos islands and some details on the sale of this commodity.»* At the end he said: *«Gentlemen: I have reasons to believe that if you do not accept now these conditions, the exigencies of Chile will be greater later on, as she thinks*

of asking up to Mollendo and she will exert in your country and against yourselves stronger hostilities than those used up to now. Think it well and try to find the way of giving to your country the means of deciding her own destinies.»

Don Julio Perez Canto in an interesting relation on that epoch, says:

«Peru made the peace with Chile when she was utterly crushed and saw the imperious necessity of the dissocupation of her territory by our victorious troops.

«This historical fact, consigned in the documents of that time, was confirmed to me later by don Jose Antonio Lavalle, Attorney of the Supreme Court and son of one of the signers of the Ancon treaty. ¡Señor Lavalle told me that his father had taken decided participation in the agreement of peace, guided by his ardent patriotic love, because he suffered greatly to see that the people was growing accustomed to the Chilean domination in Peru. Peru, then, signed peace to save her nationality.» (1).

(1) «The conflict after the victory» by Julio Perez Canto pages 41 a 42.

Chile refused the protocol drawn up by Garcia Calderon and Mr. Logan, by which «Peru ceded to Chile, Arica and Tacna, but under condition of submitting to arbitration the final decision of this cession and adding that Chile took charge of the Peruvian debts affecting those territories».

New negotiations were started then with General Iglesias, President of Peru, until the Ancón Treaty was signed the 20th October 1883.

Before considering the clauses of this treaty, which although being quite clear and mayhap for that same reason, have given occasion to so much controversy, we must bear in mind:

1. The painful situation of Peru, under the domination of the victorious armies of Chile, who administered and gave laws to the vanquished country;

2. That peace had been retarded against the will of Chile, because, with the anarchy dominant in Peru, there was no power to treat with, a fact that placed Peru in danger of losing her sovereignty;

3. That there is no logic or sense in supposing that the victor who in 1880 asked as conditions of peace Tarapacá and 20 million pesos, retaining until the treaty was fulfilled Tacna Arica and Moquegua, besides the promise that Arica would never be fortified; who in 1881 after new victories was asking as a *sine qua non* condition of peace the cession of Tacna and Arica; would in 1883, after a complete triumph, accept inferior conditions and content herself with far less than what she asked before.

4. That Chile who maintained her essential conditions, among which figured the disguised cession of Tacna and Arica, in face of the intervention of the United States, would not logically abandon such pretension once the intervention was discarded and her complete triumph recognized;

5. That during all the negotiations, in one or another form, Chile persisted in her purpose of obtaining the cession of Tacna and Arica, openly or under cover and that if the treaty of Ancon «was enforced by the victor» as the peruvian writers say,

there is no sense in supposing that Chile would have abandoned her aims on signing it;

6. That Chile had recorded the use of arbitration in her treaty with Bolivia and claimed its use before the war, but refused it after, in the peace conferences, because she did not wish to be placed in the position of not getting Tacna and Arica or having to renounce to her possession.

The 2d clause of the Ancon Treaty says:

«The Republic of Peru cedes to the Republic of Chile, perpetually and unconditionally the territory of the province of Tarapacá whose limits are: to the north the creek and river of Camarones; to the south valley and river Loa; to the east the Republic of Bolivia, and to the west the Pacific sea.»

About this clause there has been no discussion. Nevertheless, lately a Peruvian fraction headed by the aggressive Foreign Minister don Meliton Porras, is asking the devolution of that province «perpetually and unconditionally ceded», declaring on

their own authority that the Ancon treaty is null. (1).

This pretension cannot surprise those that know the attitude of Peru in her dispute with Colombia and Ecuador. Just the same as there have been Peruvian publicists to affirm that Peru was not vanquished in Tarqui, that the treaty of 1829 (with Colombia) is null because Peru has not fulfilled it, and that the Pedemonte Mosquera protocol has not existed; there is no wonder if they say—if some writers have not said so already—that Chile did not win the war of the Pacific, that Lima was never occupied and consequently that Chile must be forced to return Tacna, Arica, Tarapacá and Antofagasta, and to pay an exorbitant indemnity to Peru for the unauthorized use of those territories.

(1) The Minister of Perú in Bogotá has declared to a reporter that Perú does not recognize the Ancon treaty. Don Guillermo Seoane opines that «the situation of the Peruvian provinces must be brought back to the state they had in 1883». This is equivalent to wish that all Perú be brought back to that situation.

The 3rd clause of the Treaty says:

«The territory of the provinces of Tacna and Arica, whose limits are on the north the Sama river from its start in the cordilleras that are the limit with Bolivia, down to its mouth at the sea; on the south the creek and river Camarones; on the east with the Republic of Bolivia and on the west the Pacific sea, will continue under possession of Chile and subject to the chilean legislation and authorities for a term of ten years, to be counted from the ratification of the present Peace Teaty. When this term has expired a plebiscite will decide by popular vote if the territory of the provinces named, definitely remains under the dominion and sovereignty of Chile or if they continue being a part of the Peruvian territory. That country in whose favor the provinces of Tacna and Arica stay annexed will pay to the other ten million pesos in silver money of Chile or Peruvian soles of equal weight and alloy.

«A special protocol, to be considered as embodied in the present Treaty, will establish the form of carrying out the plebiscite and the conditions and terms for the payment of the

ten millions by the country that will be owner of Tacna and Arica.»

Whoever studies this clause without prejudice, will doubtlessly conclude that it is clear enough to avoid any discussion, and that if it had been fulfilled in the stipulated manner, that is to say if the plebiscite had been carried into effect at the end of the ten years after the ratification of the treaty, the solution favorable to Chile would have been obtained with the force of an expressly foreseen event.

The circumstance of Peru having hindered the carrying out of the plebiscite—because her exigency that only Peruvians are to vote, is equivalent to that—is the origin of the dispute. The plebiscite not having taken place for this reason, and an endless discussion having been started on the «form» of carrying it out the question has been complicated by the growing pretensions of Peru which have the purpose of obtaining by all and no matter which means the *annexion* of Tacna and Arica. I mark the word *annexion*, because, as we

will see further on, this is the true word to use.

So the discussion that should have been kept to the «form» of outcarrying the plebiscite as indicated by the Treaty has been carried through the phrasing of the text of the treaty, twisting and mixing, to have them say what Peru maintains. For this reason it is useful to study this clause in a logical manner, not to make clear what is sufficiently so, but to get its inner sense, now that the plebiscite did not take place at the term appointed, a thing that was not expressly foreseen, but that was implicitly expected.

The 3rd clause of the Ancon treaty can be divided in four parts:

«The territory of the provinces of Tacna and Arica will continue under possession of Chile and subject to chilean legislation and authorities for a term of ten years, to be counted from the ratification of the present Peace Treaty.»...

If the clause had finished there and the treaty did not say what was to be done after those ten years, the Peruvians argumenta-

tion would be unanswerable and the dominion and sovereignty of Chile over those provinces would have ceased in fact on the 28th March 1894, and would be «evidently illegal» since that date, as affirms the Foreign Office of Lima.

But this condition is subject to an expressed fact and cannot subsist without it; and that is why it goes on to say:

«When this term has expired a plebiscite will decide by popular vote if the territory of the provinces named definitely remains under the dominion and sovereignty of Chile or if they continue being a part of the Peruvian territory.»

It has not been said that at the end of the ten years and through the mere fact of the end of the term, Peru would obtain the dominion and sovereignty of Tacna and Arica. Nor the absurd of these provinces becoming autonomous is supposed. It is clearly stipulated that a plebiscite would take place to decide to which nation they would definitely belong. So it is logical to deduce that the treaty has foreseen the case of the plebiscite not ta-

king place at the indicated term, and that is why on saying that the «territory remains», that is to say endures, it has stipulated that the plebiscite will be carried out under the dominion and sovereignty of Chile, and that such dominion and sovereignty would cease only in the case that the plebiscite, by popular vote, would so decide.

The Peruvian opinion which maintains that it is in accordance with the treaty that the sovereignty and dominion of Chile over these provinces ends before the plebiscite is carried out, forces us to the absurd supposition of a treaty so devised that one of the parties can render it void without the consent of the other; that Chile on signing it would have signed against herself, willingly putting in the hands of Peru the easiest means of recovering Tacna and Arica, without running the risk of losing them by a plebiscite, because Peru could by merely refusing to agree on the Protocol—as she has done—about the form of outcarrying the plebiscite, render this last unnecessary.

The term of ten years is then a minimum term. Therefore there is no finished term, and what puts an end to the sovereignty of Chile over Tacna and Arica is not the term of years but the adverse result of the plebiscite.

The term of ten years, fixed as a minimum to hold the plebiscite, according to the treaty's antecedents, was not stipulated with the purpose of having Chile exploit during that time those provinces know as «waterless river, treeless forest, as was called that hard desert that has never ceased being barren» (1).

It was stipulated, knowing that they would prove, as they have proven, a liability very costly to Chile without any other advantage than the protection of her northern frontier, to allow Chile to have a minimum term to prepare a favorable plebiscite. This is as clear as daylight: if the intention of the negotiators of the Ancon Treaty had been another if they had wished—as Peru pretends to-day—that the

(1) Javier Vial Solar. La Nacion of Buenos Aires.

Peruvian inhabitants of Tacna and Arica decide by vote if the territories are to belong to Chile or not, it would have been stipulated for the plebiscite to take place at once, as it was stipulated in other plebiscites from 1795 to 1866, date of the Praga treaty.

It is absurd to suppose that Chile, victor and capable of dictating conditions to the vanquished, would accept a condition that imposed on her for ten years enormous expenses without retribution, so that at the end of that term the object of her exigency and the security of her frontier would be lost by the mere refusal of Peru to concur to the plebiscite. This absurdity enforces a logical interpretation: Peru on signing the treaty and giving the ten years minimum term for holding the plebiscite, had in mind that it would surely be favorable to Chile. There are moreover many Peruvian witnesses of that time that so understood this condition (1).

(1) «In the press of Lima of that time you can find at every step the most violent attacks on the government of Iglesias for having delivered those provinces to Chile

To have the Ancon treaty say other things than those literally said, to twist the phrases so as to make a knot easy to cut but difficult to untie, is a useless task, as the treaty is written in spanish and cannot say more than what is expressed with absolute clearness. If the 3rd clause in its second paragraph, that we have under consideration, had tried to express what the Peruvian comméntarists pretend, it is sure that it would have been said with the carefulness and precision with which stipulates things of lesser import in the clauses 4th to 13th. If the treaty meant the dominion and sovereignty of Chile over Tacna and Arica to end exactly at the end of the ten years, by the termination of the term itself and not by effect of the plebiscite, it would clearly have said so and would have put into record the results to be had from that all important event. Silence

He was accused of «having sold for ten millions the colors and the territory of Perú to Chile»; they talked of a «shameful cession of national territory». Augusto Orrego Luco. Letter to the Editor of La Nacion of Buenos Aires.

in this respect clearly indicates that the dominion and sovereignty endure, until, as it expressly says, a plebiscite by popular vote decides the contrary.

As an example of the unique argumentation of the Peruvian Foreign Office and how they interpret the clear provision of the treaty, I will quote what don Jose Prado Ugarteche one of the most intelligent and cultured men of Peru says in a communication to the Foreign Minister of Chile, under date of 25th April 1905.

The Foreign Minister of Peru says: «In the Treaty of Ancon it was expressly agreed that such possession would continue (that of Chile) for a fixed term, but no cession was made of sovereignty and dominion, which was carefully stipulated for Tarapaca and reserved for Tacna and Arica until the outcome of the plebiscite that at the end of the ten years, elapsed on March 28th 1894, should have definitively decided the future of the provinces named.

«By extension one can embrace the particular in the general, the accesory within the principal, the accidental within the

substantial. But it is not possible to go in opposition to the order of the ideas and to all legal principle; to do the reverse and to embrace the sovereignty and dominion within the possession and its effects, which last was the only thing stipulated in the Ancon treaty for the ten years of Chilean occupation in the territories of Tacna and Arica.»

It is enough to know how to read to discover that this argument, one of the strongest of the Peruvian dialectic, has no basis or foundation.

The clause of the Ancon treaty we are considering, clearly says: *«The territory of the provinces of Tacna and Arica will continue under possession of Chile and subject to the chilean legislation and authorities for a term of ten years.»*

If the fact of a territory being *«under possession»* of a State and *«subject to the legislation and authorities»* of the same State, does not constitute being under its dominion and sovereignty, nobody will be able to say what it does mean.

Moreover, the same treaty says: «When

this term has expired a plebiscite will decide by popular vote if the territory of the provinces named *definitely remains under the dominion and sovereignty of Chile.*»

The verb *to remain* includes the idea that it is already, so that the fact exists and that it will endure, and means *to subsist, to maintain, to persevere, to continue*. The phrase *definitely remains*, reinforces still more that sense of a state already existing, that such dominion and sovereignty of Chile was already established, ceded by Peru with out any limitation as to its exercise and which the favorable vote in the plebiscite would render definitive.

As we see all the Peruvian argumentation, if it was accepted as valid, tends to demonstrate that those that signed and ratified the Ancon Treaty, did not know the significance of the words used in its drawing up and that the Peruvian Foreign Office is a kind of Language Academy, with ample powers to modify the sense of the words and even of the ideas they express.

Let us suppose the negotiators of the

treaty so devoid of historical knowledge as not to know the difference between «election» and «plebiscite» and that their intention on saying «a plebiscite will decide by popular vote» was to say that only Peruvians or Chileans, residents in Tacna and Arica, could vote, why did not they say it? Simply because those negotiators, well knowing the historical sense of words, thought they were saying what they wished to say: that the people should decide, that is to say all inhabitants capable of expressing a vote. That is why they reiterated their intention on saying «by popular vote.»

The inconceivable pretension of Peru that in the plebiscite only Peruvians should vote, that is to say that the minority is to decide, seems to me as absurd as if any one on fulfilling a law which says: «Congress will decide» alleged that the Senate is excluded because in Spain, Congress means Chamber of Deputies.

«*Plebiscite*, from *plebs*, the populace or people and *sciscere*, to decree; a law decreed by the people» (Monlau, *Ethimological Dictionary of the Spanish Language*).

«*Plebs, plebis*. The Plebe, the plebeians. *Cic*. The people, the common people, the populace» (New Latin-French Dictionnary by Benoit & Goelzer).

«*Plebes*, appropriately means a crowd. It comes from the same root that has given *pleo, plenus, plerique*». (the most) (Ethimological Latin Dictionnary by Michel Breal).

«*Plebiscite* From *plebiscitum*. Law that the plebe of Rome used to enact separately from the superior classes of the Republic, at the proposition of their tribune. *Resolution adopted by the whole of a people by plurality of vote*» (Dictionnary of the Royal Spanish Academy).

«*Plebiscite* (latin *Plebiscitum*) a decree or ordinance of the people, *plebs* the people and *scitum* a decree, neutral of *scitus* pp. of scire, know. 1. same as *plebiscitum*. 2. An expression of the will or pleasure of the whole people in regard to some measure already decided upon; a vote of the whole people for the ratification or disapproval of some matter» (The Century Dictionary).

Plebe comes from the root *pleo*, a mass,

altogether, and from that, full, complete. In the roman legislation the laws *Valeria Horatia*, *Publia Philonis* and *Hortentia*, gave to the people the right of meeting in *concilia plebis*, to expedite decisions that had the name of *plebiscita* and that these plebiscites would be obligatory law for all citizens. In our modern law, the plebiscite is the consultation to the people to know to which nationality they wish to belong and, generally, every individual is admitted to express his option, so that every person may by herself dispose of her nationality.

So that when the Ancon treaty established that «a plebiscite» would decide, and added «by popular vote», it said and ratified the wish that it should be the plebe, the people, the populace, all the inhabitants, the one to give the decision. For one of the parties to pretend, as Peru does, to restrict the vote to a certain class of persons, is an attempt against the treaty itself, is to ask that the plebiscite does not take place.

«The high contracting parties limited

themselves to establish the basis of the proceeding which would be a plebiscite leaving for a better occasion the agreement on the form of carrying out the plebiscite.

«The only thing fixed was the nature of the operation.

«The treaties never contain stipulation of detail, a thing that is left for future conventions, acts or protocols in which the substantive stipulations of the solemn pact are developed without altering their essence.

«On naming a plebiscite, the treaty fully sent us to the legislation and the history of Rome. The plebiscite was a frequent and simple operation, perfectly delimited and characterized and wholly different from the electoral process.

«In the elections only *citizens* vote; in the plebiscite the whole people took part, the *plebe*.

«Election and plebiscite were and will be two *substantially* different, operations.

«Peru, under the plea of discussing the *details* of the plebiscite pretends to discuss the *essence* of it and to convert the plebiscitary operation into an electoral process»

(Vicente Santa Cruz, in *El Diario Ilustrado* of Santiago).

The erroneous belief that Peru is still the owner of Tacna and Arica and that she ceded only the possession *pro tempore*, is completely contradicted, moreover, if we examine the third part of the clause we are considering:

The treaty says: «*That country in whose favour the provinces of Tacna and Arica stay annexed, will pay to the other ten million pesos*».

Why does the treaty say *stay annexed*?

«*To annex*. To unite or add a thing to another, with dependence to it. It is generally used in speaking of the *adding of a town or a province to a nation, or of a nation to another*, or of a church endowment to another». (Dictionnary of the Royal Spanish Academy).

«*Annexion*. Absortion by an State of the whole or a part of the territory belonging to another State (1).

(1) On several occasions the ceded populations have been invited to give their adhesion to the planned annexion by means of plebiscite: union of Belgium and Mul-

If the signers of the Treaty had understood that Tacna and Arica, *continued* belonging to Perú even after being «subject to chilean legislation and authorities» it would have been an absurd to provide that those provinces could be *annexed* to Perú, as a territory that belongs to a State is not to be *annexed* to it. This is done with autonomous territories or [those belonging to other States. As can be seen in recent publications of french writers, Alsace and Lorraine were *annexed* by Germany in 1870, thus giving to understand that they were the property of France and now they have been *reincorporated* to France (1).

house to France (1795); of several states and provinces of Italy to Sardinia (1860); of Venise to Italy (1866); of Nice and Savoy to France (1860); of the Ionic islands to Greece (1865); of Saint Barthelemy to France. The article 5th of the Praga treaty (1866) stipulated that populations of the northern Sleschwig could be returned to Denmark, if they expressed that wish; an austro-german conventon abolished in 1878 this clause that was never carried out.—(Nouveau Larousse Illustré).

(1) «M. Marcel Hutin in the Echo de Paris, resumes an article of the American publicist Mr. Frank Simmonds, who declares himself in favour of the *union* of Alsace

From the german point of view, the writers that defend the theory that Alsace and Lorraine form a part of the german territory, give the same sense to the word *annexion*. To quote the opinion of a Peruvian: In the House of Representatives in Lima, in one of the sessions of last December the Peruvian deputy Sr. Pinzas said: I cannot accept that Tarapacá, Tacna and Arica be called the Alsace-Lorraine of Perú. By no means. Alsace and Lorraine had been german. The victories of king Louis XIV *annexed* those territoires to France. When the year 70 came those two provinces were *reivindicated by Germany*» (2).

To say, then, that Tacna and Arica can be *annexed* to Perú if the plebiscite so decides, is to clearly indicate that this territory does not form a part of the Peruvian territory since 1883. If this was not so, it

Lorraine to France without a plebiscite, as well as of the *annexion* of the Sarre basin, as a compensation for the destruction of french coal mines. La Nacion of Buenos Aires, March 11th 1919.

(2) La Defensa de Chile, Buenos Aires, April 10th 1919.

would have been said that these provinces would be *reincorporated* to Perú.

The last paragraph of the 3rd clause of the treaty, says: «*A special protocol, to be considered as embodied in the present treaty, will establish the form of carrying out the plebiscite and the conditions and terms for the payment of the ten millions by the country that will be owner of Tacna and Arica.*»

The first thing to call the attention on reading this paragraph is that Tacna and Arica have no *owner* until the plebiscite takes place, because only the plebiscite can decide between Chile and Perú as to the one to be «the country which will be the owner» of the said provinces. This means that Chile can maintain with the same right that Perú does, that she is the owner of Tacna and Arica, while the plebiscite does not take place, and with far more reason, since those territories by provision of the same treaty are under «the dominion and sovereignty of Chile».

* * *

Why was not the Protocol agreed to in 1894 as stipulated in the treaty and why has there been no agreements so far? Where lies the divergency of opinions that hinders the reaching a solution?

Simply because Perú has not wished to discuss «the form of carrying out the plebiscite» and discusses the essence itself of the plebiscite. She pretends that there should be no plebiscite but an election among Peruvians, which I have already demonstrated goes against the text of the Ancon treaty.

The notable Chilean publicist don Antonio Huneeus, ex Foreign Minister, says: «What is meant by fulfilling this pact? To fulfill the Ancon treaty, is to propose, as Chile has done, that in the plebiscite should vote chileans, peruvians and foreigners that have resided for some time there and who know how to read and write and that the plebiscite should be held under a Commission presided by the acting sovereign,

and formed by chilean and peruvian delegates.

«Not to fulfill the Ancon treaty is to propose, as Perú has done, that only peruvians and foreigners are to vote or only the natives of Tacna and Arica and that the plebiscite be directed by delegates from foreign sovereigns.....

«In 1906 and 1912 I had the honour of proposing to the Government of Perú, in behalf of my Government, the wiser, and in all respects the best justified, conditions for the plebiscite.

«In 1912 Perú accepted the plebiscite. We agreed that it should take place in 21 years; that it should be organized by a commission empowered to act by majority and formed of two chileans, two peruvians and the President of the Supreme Court of Chile as chairman; that all born in Tacna and Arica and the chileans and peruvians with over three years residence could vote; all voters should know how to read write. The Legations in Santiago and Lima would be reestablished at once. But as soon as these conditions were agreed, the Govern-

ment of Perú presented these bases to his Congress, altering them in their essence. Such an untoward retraction, forced us to suspend the pact agreed to. So it was done, against our wishes, but with the certainty of doing our duty. Proof of this is given in the text, supported by the pertinent documents, of the report of the Foreign Office of Chile for 1917.

«Chile, then, has been faithful to her pledged faith towards the obligation of the plebiscite and towards the international treaty that provides it. But we see the manner in which Perú has frustrated and until now avoids the plebiscite.»

One of the characteristics of modern world is not to think over much and easily accept ready made opinions, manufactured by somebody else. The Peruvian Government, an admirable psychologist of the multitudes, has sent all over the world a host of writers and diplomatists to repeat this assertion: «Chile has not wished the plebiscite to take place: Chile does not fulfill the Ancon treaty!» And the public

hearing this oft repeated assertion finishes by accepting it without further proof.

One simple question will help to find the truth: Why does not Chile fulfill the Ancon treaty? Because, says Perú, Chile does not accept our formula for carrying out the plebiscite.

«Which is that formula?

«That in the plebiscite only peruvians are to vote and that the act should be presided by delegates of a neutral power.»

This would be no plebiscite, this formula goes against the spirit and the text of the Ancon treaty. Chile in accordance with the treaty and with universal practice in these cases, should preside the plebiscite, because Tacna and Arica, according to the treaty are «subject to chilean legislation and authorities» and «under her dominion and sovereignty» until a plebiscite, that is to say the will of all the people. of all the inhabitants, decides the contrary.

To elude an obligation by proposing unacceptable conditions which go against the provisions of the obligatory document

itself—as does Perú—is just the same as to flatly refuse to fulfill it.

Let us see now the formula proposed by the Chilean Foreign Office, to judge which of the two, the Chilean or the Peruvian, is the reasonable solution that respects the provisions of the Ancon treaty.

Don Alejandro Alvarez, juridical adviser of the Chilean Foreign Office in his Remarks on the Note of H. E. señor Seoane of May 8th '1908, says:

«The bases for carrying out the plebiscite indicated by our Foreign Office... are the following:

«1st.—*That the plebiscite take place under the direction of the Chilean authorities, as our country is exerting sovereignty in that territory.*

«Señor Puga Borne declares in this respect that the Government of Chile will adopt the most adequate measures so that the popular consultation will not cause any distrust from Perú; and adds that he does not see any reason against «our authorities, on constituting the polling commissions, give representation in them to

peruvian citizens or citizens of any other nationality»; and

«2d.—*That Chileans, Peruvians, and foreigners resident in Tacna and Arica have the right of suffrage, if they possess certain conditions.*»

An impartial and unprejudiced observer on comparing these liberal bases, adjusted to the practice of International Law and to the modern idea that the peoples—all the inhabitants—are the ones called to decide their future, with those proposed by Peru, will undoubtedly decide that Peru is responsible for the failure of an agreement about the Protocol provided by the Ancon treaty to carry out the plebiscite.

In the text of the Peace treaty imposed by the Allies and the United States to Germany—treaty against which the Peruvian Foreign Office has not made a single protest—on treating of the Sarre basin the same chilean doctrine as to the form of the plebiscite is clearly and peremptorily adopted. The text published by the press says:

«After fifteen years a plebiscite will be held among the residents, to manifest the

wishes of the population to continue the existing system of government under the League of Nations, their union to France or to Germany.

«All inhabitants over twenty years of age, that reside there at the time of signing, will have the right of voting.

«The League will decide the definitive sovereignty, taking into account the opinions manifested.»

Moreover, the Foreign Minister of Chile, señor Federico Puga Borne said:

«Perú pretends to propagate the notion that Chile has refused to hold the plebiscite. The contrary is proved by the conventions agreed with our Minister in Lima señor Vial Solar in 1893; the negotiations continued in 1894 by our Foreign Minister señor Sanchez Fontecilla; the invitation made in 1905 by our Minister Luis Antonio Vergara to resume diplomatic relations and reestablish the Legations that had been suppressed; the proposals made by the Foreign Minister Puga Borne to the Peruvian Minister Seoane in 1908 to hold the plebiscite, agreeing at the same

time on several other amicable treaties; the proposal of plebiscitary bases made by our Minister Edwards in 1910 to the Peruvian Foreign Office, although relations were broken; the pacts negotiated in 1912 between our Minister Huneeus and the Government of President Billingham, under the same situation, which had as basis the postponement for 21 years of the plebiscite; and finally and above all the Billingham Latorre Protocol, signed by our Foreign Office, approved by the Senate (without my vote) and left pending in the Chamber of deputies after a hard struggle against Government. This protocol had as foundation the submission to arbitration of the right of Chileans to vote in the plebiscite.»

The Government of Chile persistently and on all occasions has tried for an understanding with Peru on this dispute, as far as he has been able to go within honor and the defense of national interests, and in his wish for an agreement has reached so far—as in the Billingham Latorre Protocol—as to prescind, against his own interest, of the text and spirit of the Ancon

treaty. Perú on the other hand has never entered the ground of a frank and possible agreement and when cornered by the Chilean insistence, she starts incidents—as in the case of the wreath nobly offered by Chile as homage to Peruvian heroes—that give a setback to negotiations or breaks diplomatic relations under the slightest pretext.

To day the dispute seems to enter another more defined situation: Perú under the illusion of a possible reconstruction of the world and under the suggestion of the innovations made in the map of Europe, believes that the consequences of the European war should be felt also in the map of America, and asks by means of her diplomatists and publicists that the Ancon Treaty be declared null. By whom? By the allied countries of Europe, by the United States, by anyone, so that Tarapacá, Tacna and Arica are returned to her. Chile, strong in her right and tranquil in her decisions, maintains the validity of the Treaty and asks its fulfillment, in the same fashion that Colombia and Ecuador maintain their

rights, recognized by the Guayaquil treaty, and demand its fulfillment by Perú.

* * *

Tacna and Arica «the captives» of the Peruvian lyrisism, are of strategic necessity to Chile, as they are the only possible line of defense of her territory against an aggressive neighbour like Perú, a security looked for by any country that wishes for future peace, as has been recently maintained by France, Italy and Poland in the terms of the Peace Treaty dictated to Germany and Austria. For Perú they have not the importance lent to them in the alarmist publications manufactured for foreign consumption.

Don Federico Puga Borne, says:

«Tacna and Arica are materially apart from the Peruvian territory: the population of these provinces has accepted without difficulties the benevolent and progressive Chilean administration. The Government of Perú has demonstrated that his love has no very deep roots and showed

his indifference to that population when the Ortiz de Zeballos-Urcullu pact was agreed in 1826, by which Perú gave to Bolivia all the region between the 18 and 21 south latitude, that is to say Tacna Arica and Tarapacá, all the territory which, after the war provoked by the Perú-Bolivian alliance, Perú ceded to Chile definitely or conditionally.»

The bolivian publicist don José M. Baldivia G. in his recently published book *Tacna and Arica* demonstrates that Tacna and Arica historically belong to Perú less than to any other country and shows the small value given to these provinces by that country. Incidentally he puts in clear an incident which in Perú has been used to show the imperialism of Chile and her aims of dominion over Bolivia and which Peruvians tell putting in the mouth of a former Chilean Minister in Lima, don Angel C. Vicuña, expressions that were said by a prominent Peruvian to the Chilean Minister.

The Bolivian writer says:

«As to the intention of the Peruvian Go-

vernment of giving Tacna and Arica to Chile, we can quote the official statements of the Chilean Plenipotentiary in Perú, Anjel C. Vicuña, in his communication to his Government under date May 30th 1900 and published in *El Mercurio* of Santiago, N.º 447 of the 21st August 1901, included in a long interview published as an answer to a circular to all Foreign Offices sent by the Foreign Minister of Perú don Felipe de Osma, under the administration of President Romaña.

«In the paragraph headed «External Policy» Minister Vicuña says: A few days ago *deputy Sr. Amezaga visited me*. He is a young man of independence and reputed as one of the most cultured of this country. *The object of his visit was to talk with me about an international plan that in HIS OPINION WAS PRACTICABLE*, and that would give as a sure result the complete reconciliation between Perú and Chile. By means of a *prearranged plebiscite*, this country would give us Tacna and Arica but under condition that a dismemberment of Boli-

via would compensate the loss that Perú was going to suffer»... (1).

The author goes on to quote the correspondence of the Chilean Minister with his Government, under date of May 30th 1900 in which, recounting an interview he had with Sr. Romaña, President of Perú, Minister Anjel C. Vicuña affirms that the President said to him:

«We will not have to give but to receive he said smiling. *I have already effaced from the map of Perú the provinces of Tacna and Arica* and what I tell you now is the result of a deep conviction»...

The author goes on to say: «In 1905 the Foreign Minister of Perú Javier Prado y Ugarteche, expressed in a session of Congress, the intention he had of giving the provinces of Tacna and Arica to Chile.

«This session was held the 3rd January 1905, under the chairmanship of Dr. Irigoyen. As a consequence of this declara-

(1) The division of Bolivia has always been the golden dream of Perú.

tion there were disorders and tumults» (1) and then the author goes on to quote the transcription of that session taken from *El Tiempo* of Lima.

So then the question of Tacna and Arica has never been, and is not now, but a question of punctillio, which in certain times is converted in a political platform, or in the electoral curfew used to agitate the people with certain ends in view. Up to now the intentions of true statesmen and patriots of Perú have been unable to prevail, against that policy on every occasion they have tried to find friendly solutions with Chile—never refused by this country—that will contemplate the interests of both countries.

Don Manuel J. Vega in an article in *La Informacion* says:

«It is understood that in their present state the territories of Tacna and Arica are of negative value economically considered: up to now no natural wealth has been

(1) *Historical Pages. Tacna and Arica*, by José M. Baldivia G., pages 17 and following. La Paz, Litografía e Imprenta Moderna, 1919.

discovered in sufficient quantities, nor are there industries amply developed that may be considered as a factor of public wealth. If in the future they may be made valuable by impulsing the production of raw materials appropriate to that intertropical zone and by founding industries that will employ such raw materials, it is a problem that is not yet solved but its attempt will surely be very costly».

* * *

That *victory does not give rights* is a saying that in Argentine has been raised to the level of an international principle, notwithstanding what the great argentinian statesman don Bartolomé Mitre said with wisdom and eloquence: *The victory obtained by the arms gives rights, more legitimate and sacred than those obtained from weakness and corruption.*» (1).

Although the right may exist already—as in the case of the independence of the

(1) La Nacion, December 5th, 1880.

spanish colonies from Spain, it was victory that *gave* them the right to proclaim themselves independent republics. The Poles and the Tchecho-slovaks had the right to their independence, but it is only by the victory over Germany and Austria that they have been *given* this right. It would be nearer truth to say that victory does not *create* rights, although if we revise History, we will see how many times victory has been fountain of rights.

The Minister of Foreign Relations of France, M. Pichon, has said in the session of 30 December 1918, of the French Chamber: «The victory gives rights over the vanquished.»

«War creates rights that cannot be resisted with titles that were in existence before the war and were a cause for its declaration. The supreme right in these cases is the right of the victor. The victory creates a new order of things and is the starting point to define the right of the belligerents.» (Honorato Vásquez).

«Victory does not give rights. This phrase is beautiful and noble. Mayhap she will mark

an advance of humanity towards future confraternity, but now it is of an exaggerated platonism. If before going to war, the adversaries agree that the victor will gain nothing, then what need of fighting?» (Georges Clemenceau).

Victory *does not create* rights. We can accept this as a general principle but when to victory succeeds the free acceptance of a pact, by which one of the parties voluntarily cedes to the other, as an indemnity, a portion of her own territory, this title is as perfect as the one the United States have over Florida or Alaska, which were bought from Spain and Russia.

The titles of Chile to the «perpetual and unconditional» sovereignty over Tarapacá and the «conditional» one, over Tacna and Arica, do not emanate properly from her victory over Perú, but are a consequence of such victory. These titles are based in the free and spontaneous acceptance of Perú, recorded in the Ancon Treaty. Perú, when being vanquished, could have refused such cession, could have not used her free juridical capacity for contracting and

then supposing that the situation of 1883 would have continued, Chile could have over those territories, only the imperfect dominion of military occupation, not accepted, and consequently of no juridical value in face of the perfect and imprescriptible right of Perú to reivindicar such territories as soon as she had enough strength and power to do it.

This is the situation of Colombia and Ecuador, who have never consented nor ratified any title that Perú could allege on the occupation of the disputed territories. Far less have they ceded voluntary or enforcedly any part of these territories.

The case of Panamá is a precise demonstration: The United States who had power and daring to cause that colombian Department to rebel; who inside of the 24 hours of the proclamation of the new republic recognized her as a sovereign State and stopped Colombia from reducing her; obtained from the new republic the cession of the Canal Zone and opened the Panamá Canal with universal applause. But they have not been able with all their

power to legitimate their right without the consent of Colombia and having understood this, they asked Colombia to ratify the accomplished facts. From there springs the Urrutia Thomson treaty of April 6th 1914; this is the reason of President Wilson's message to Congress in 1919 urging the Senate to pass that treaty, as an act of justice and high convenience.

Once this treaty is approved, the title of the United States to the Canal Zone will be perfect, and Colombia will not be able to say that she signed under the pressure of the stronger nor forced by circumstances in which she was placed by the action of force.

The beautiful theory that the treaties which imply cession of territories or payment of war indemnities, signed by the vanquished under pressure of the victor, have in themselves a character of nullity, can be defended by idealists with the same enthusiasm with which the «love each other» and «love thine enemy» are preached. These are Divine precepts which after twenty centuries cannot be put in practice in hu-

man relations. Such theory is at variance in practice with the thought and the work of those charged with the government of nations.

Even to day, after such a great and apparently decisive triumph of right and justice over the imperialism of strength, the verdict on what is just or unjust is to be given by the victor. The conditions will be fixed, and not discussed and the stronger esteems that it is an act of restoring justice and a guarantee of future peace, to weaken the fallen and to advance their frontiers as far as is needed for an easy defense of their territory and to avoid future aggressions.

To declare that the treaty the Allies will impose on the Central powers, Bulgary and Turkey, carries in itself a vice of nullity and injustice, because it will be signed under the pressure of the stronger, would constitute an assertion as unique as dangerous. To suppose that to Germany and her allies is reserved the right—after signing the Treaty and of gaining strength or support for it—of declaring it void and to reivindi-

cate the ceded territories, alleging that they did not act freely but under pressure of the victor, would be so surprising that the most stubborn pan-germanist has not thought about it.

Nevertheless such opinion is maintained by the foremost publicists and internationalists of Perú, who, seemly, profess the theory of a double moral: one for themselves and the other for strangers (1).

Chile like the allies in the world's war fixed her conditions of peace in 1883 and 1884 to Perú and Bolivia; these conditions were the consequence of the victory of Chile in a war provoked by those republics and it is to be presumed that in signing treaties Perú, as well as Bolivia, acted in good faith. To suppose that Bolivia and Perú—although they gave ample proof of heroic courage and tenacity in the struggle—had not the courage to resist the excessive

(1) Although it will seem astounding, the distinguished bolivian politician doctor Escalier also supports this strange theory that to-day belongs to a pro-germanism that is out of use. See *La Nacion* of Buenos Aires of 27 January 1919.

exigencies of the victor is absurd. In our latin race we do not see such cases. But it can happen, what took place then: that between two ills, the occupation of a great part of the national territory by the enemy and the prosecution of a hopeless war on one side and the cession of provinces on the other, they chose the lesser. This is what was done by Perú and that is why she signed the Ancon treaty, a pact whose validity and obligatory force Perú did not dare to deny until lately (1).

Nevertheless the increasing tide of the the pretensions of some Peruvian governments has reached now the intention of asking the Peace Conference or the League of Nations or the United States directly the annullment of the Ancon treaty and consequently the return of Tarapacá Tacna and Arica, alleging

(1) Bolivia acting with more loyalty and wisdom than Perú, accepted the accomplished facts and has preferred the friendship with the former adversary maintaining the treaties signed with Chile: that of unlimited truce (April 1884) and that of definitive peace (October 1904) rather than follow the Peruvian example.

that this Treaty was null having been imposed after a war by the victor. This argumentation Perú has wished to make in face of the victors that were discussing a Peace Treaty to be imposed to the vanquished and which would be made known to these when the time of signing had arrived (2).

And yet the futile work of the Foreign Office of the Rimac goes on imperturba-

(2) A cable from London dated March 11th 1919, says: «According to The Evening News Mr. Lloyd George and Mr. Balfour have made their colleagues know that the Peace Conference has finished its preliminary work. The newspaper quoted adds that a draft of the Peace Treaty has been drawn up which will be signed before the end of this month so that when the german delegates are invited to the french capital the treaty of peace will be made known to the mand they will be asked to sign it. There will be no discussion in the sense of modifying the Treaty in its main clauses.»

London 21st.—The Excelsior has published the following statement from Mr. Lloyd George: «I will remain in Paris, unless something unexpected happens, until the text of the preliminaries of the Peace Treaty has been drawn up in a definite form and when it will be ready to be presented to the German delegation, not to be discussed by her but to be signed».

bly even after the note of warning given by Mr. Lloyd George from the high tribune of the Commons, when he said on July 3rd 1919:

«WE ARE DECIDED THAT TREATIES WILL NOT BE HENCEFORTH A MERE RAG OF PAPER.»

As a logical thing Perú should present her reclamations to Germany who is, as the vanquished, in a worse situation than Perú in 1883.

* * *

The Governments of Perú have wished to see in the United States a «pater familias» in the roman sense of the expression,

And as we have seen the treaty was signed by Germany in the form it was, drafted by the allies. The trifling ammendments obtained by Germany do not affect the essential clauses whose principal aim was to guarantee the security of France and render a new aggression imposible to Germany.

having the primary duty of keeping order and peace among the smaller Republics of Latin America and even of repressing them when they rebel or protest against such an unasked for paternity. This is because it is to the advantage of present Peruvian interest and because «the rich is always a good friend to have» now as always, and not because Perú feels any higher love and admiration for the anglo-americans than any of the other Republics of spanish extraction or because the Peruvian people knows less than any other peoples of America about the Americans.

This is the reason why all the cries and lamentations of Perú are addressed in the first place to the United States. The rebuffs received from Uncle Sam as when he left her with the lights ready and the table spread, alleging some fantastic fear of the bubonic plague, and the smile with which outcries and callings are heard, are carefully forgotten.

«The United States are a serious and powerful nation, They will not put their hands in the fire to take out the chestnuts of

Tacna and Arica to give them to Perú well knowing that it is a principle of right that an intervention is a violation of the independence of nations and is only acceptable when the intervening State has for it a recognized right; or when a principle of humanity, fountain of International Law, authorizes foreign intervention in its defense, as in the case of the persecution of christians in Armenia or as the murder and massacre of civilized population and the killing of diplomatic representatives in China» (I).

As says Pradier Fodéré «to speak of a right of intervention is to abuse of the word Right. The duty of not intervening is imposed on all States».

Besides, the claim of Perú that the United States accept the arbitration over Tacna and Arica is out of the question. How are the United States to force any nation to submit a dispute to arbitration, when she has refused to submit their dispute

(I) Dr. Joaquin V. González.—Speech in the Chamber of Deputies of Buenos Aires in the session of 29th July 1902.

with Colombia to the Hague Court or to any other court of arbitration? Moreover in the Covenant of the League of Nations there is nothing to indicate that arbitration may be enforced, if it has not been so agreed in a pact signed by both parties.

If the Government of the United States possesses any thing, it is logic and coherence in his proceedings. That is why after Roosevelt «took Panamá» has he himself said, it was natural that the Secretary of State Mr. Hay would answer the petition of arbitration of Colombia, saying: «the questions of external policy and of recognition or unrecognition of foreign States are purely of a political nature and do not fall under juridical verdicts» adding that his country could not «offer her face for any other nation to slap it.»

It is to be prayed that there may exist a nation or league of nations with power enough to force any country strong or weak to submit her international questions in dispute to an arbitration court, because then the United States, if we start justice with ourselves, would be forced to submit

to arbitration the claims of Colombia against her, whose justice has been recognized by President Wilson in his message to Congress on the violation of the treaty of 1846 and the secession of Panamá.

As it is not possible for the United States to support the pretensions of Perú against Chile or that the nations of Europe intervene as that would infringe the Monroe doctrine, Perú has the most straight and convenient road: the direct understanding with Chile and I am sure that if she takes that road in an open and loyal manner she will find in Chile the best intention of reaching a satisfactory solution for both peoples.

Patriotism and the consideration of a future of union and greatness based on the intellectual and moral alliance of the Latin American republics, imperiously urge this solution.

This edition came out of press in April 1920.

PERUVIAN IMPERIALISM

This is not exactly the term to apply to the immoderate tendency of Perú to extend her territorial occupation at the expense of her neighbours, to pretend with insufficient titles surrounding territories and hence to maintain continuous disputes with her neighbours. This conduct has placed her in a situation of isolation, if not of hostility with the neighbouring countries.

Not having the just word we use that of "imperialism", not in the sense given to it by Kipling and Paul Louis, but in the sense to be applied to any nation—republic or empire—which fosters the expansion of her power and pretends to augment it to the detriment of other countries.

Perú has been unable to carry out her

imperialist tendency but against Colombia and Ecuador. The process of absorption over these countries, considered in the corresponding chapters, is explained at sight by the diagram and maps attached, and especially in the last one, where the reader can appreciate the magnitude of the pretensions of Perú over lands of Ecuador and Colombia; the extension of the territories already occupied in the development of her ambitions, as well as the importance of her suits with Brasil and Bolivia, before all which the question with Chile on Tacna and Arica appears as insignificant.

In this book we have sufficiently studied all that refers to Perú as regards her question with Greater Colombia first, and then with Colombia, Ecuador and Chile. Her boundary disputes with Brasil and Bolivia could give matter for another book, in which it could be again demonstrated that if there ever was imperialism in South America, it is that of Peru, impotent in front of the strong, audacious with the weak or unprepared.

As it is not my intention to attempt such

task, I give only a brief summary on the solution of these questions, serving to explain the maps.

By the Treaty of September 8th 1909, agreed between Brasil and Perú, the last delivered over to Brasil the section of the State of Amazons disputed with Brasil and also the Central Zone obtained from Bolivia by the treaty of Petropolis of November 17th 1903, with the exception of an insignificant extension of 1,500 square kilometers.

The Arbitral Award given by the President of Argentine the 9th July 1909, established that the Virreinato of Perú had reached only to the 69.35 meridian of Greenwich and in view of this declaration the Foreign Minister of Brasil, baron de Rio Branco, refused all discussion with Peru on lands to the east of that meridian, with which decision Peruvian pretensions were reduced to one half. Circumstances favoured also baron de Rio Branco as Perú had great difficulties with Bolivia which refused to accept the Argentinean award. This Award by its declarations and consequences directly benefitted Brasil, whose Minister of

Foreign Affairs cleverly used the opportunity to obtain from Perú the almost total renunciation of her pretensions to the rich territories of Acre.

Baron de Rio Branco says the following regarding this Treaty: "The great unequality to be noted in the cessions which each of the parties implicitly make by the demarcation they have agreed to, is more apparent than real and it is due only to the exaggerated pretensions formulated in 1863 and stubbornly maintained by the Government of Perú until lately".

The reason of Peru entering direct agreements with Brasil and abandoning her pretensions, is found not only in the circumstances and in the political aim of obtaining a possible support in Brasil against Colombia, Ecuador, Bolivia and Chile, but mainly in the following:

"Señor Porras (Foreing Minister of Peru) defending his work—the Treaty with Brasília—said in an interview published by *El Diario* that PERU WAS DELIVERING TERRITORIES THAT DID NOT BELONG TO HER. This means a confession that all the

efforts of President Pardo of Perú for exploring, defend and incorporate the said territories to the country, had no justification or legal rights" (1).

What Porras said was true, but he did not express all the truth: that these territories belonged to Colombia and that Perú was generous at the expense of another.

On December 30th 1902 arbitration was agreed between Peru and Bolivia to solve the questions of limits between both countries. The arbitrator appointed was the President of Argentine. The territories in question covered a zone of 720.000 square kilometers.

In July 9th 1909, the President of Argentine, señor Figueroa Alcorta, gave his award and the Minister of Bolivia in Argentine Sr. Escalier, on acknowledging it, manifested in the name of his Government that the award lacked an essential condition of the agreement of arbitration, as it was not based in the titles or documents exhibited by the

(1) Julio Pérez Canto, *The Conflict after the Victory*, page 446.

parties and hence was not an *arbitratio juris* and on giving en equity arbitration the arbiter had gone out of the expressed limitations of the Treaty.

The Government of Bolivia decided, in view of these considerations, to submit the award to consideration of the Congress.

The unacceptance of the award occasioned the rupture of relations with Argentine and popular indignation in Bolivia broke out in demonstrations against Argentine and Perú.

Bolivian opinion manifested herself resolved not to deliver the territories she had under occupation in the disputed zone but by force.

The Government of Chile that could have used in its favour this situation, adopted, on the contrary, a discreet and friendly attitude, so as to obtain an agreement and avoid the armed conflict that seemed imminent. This attitude and the firmness of public opinion in Bolivia opened the road to proposals of conciliation.

By the agreements of 15th and 17th September 1909, the boundary dispute between both countries was satisfactorily and per-

manently settled. By the first agreement Bolivia accepted the arbitration award, leaving on record the same observations made by Escalier and by the second agreement the boundary line is fixed with mutual concessions on the line fixed by the arbiter.

Bolivia kept almost all the possession occupied by her in the disputed zone from which the award had deprived her.

The boundary questions of Perú with Brasil and Bolivia having been settled fairly or wrongly—but definitely; it is to be hoped that the currents of ibero-american fraternity will reach the doors of Perú, open the minds of her statesmen and convince them that the imperialism shown by Perú offers more inconvenients than advantages and that the confraternity with Chile, Ecuador and Colombia is more necessary to her progressist development than the maintenance of permanent alarm in South America.

Santiago, December 1919.

J. I. G.

DIAGRAM

Pretensions of Perú on
Colombia and Ecuador



Territories disputed between
Perú and Brasil



Territories of Ecuador at
present occupied by Perú



Territories of Colombia at
present occupied by Perú



Territories recovered by Bolivia



Territories under dispute
between Chile and Perú



DETAILS OF THE DIAGRAM

	Square kilometers.
Pretensions of Perú on territories of Colombia and Ecuador.....	673 355.53
Territories of Colombia outside the Pedemonte-Mosquera Boundary Line occupied at present by Perú.....	101 795.04
Territories of Ecuador occupied by Perú.	204 527.52
Territories obtained by Brasil in her suit with Perú.....	389 275.20
Territories recovered by Bolivia.....	80 352.00
Territories matter of conflict between Chile and Perú by reason of Perú not having fulfilled the Treaty of Ancon.....	23 958.00

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MAP IN WHICH
SIONS OF P

50 300 350 400 Kilometres

- Peruvian pretensions
- Royal Grant
- Importants towns
- Peru pretensions
- Bogota.
- Limits with Peru
- Limits of Colombia

I. Caracao

Caracao

Caracao

Caracao

MAP IN WHICH

SIONS OF P

50 300 300 400 Miles

- Peruvian preter
- Royal Grant
- Important towns
- Peru preter
- Bogota.
- Limits with Per
- Limits of Color

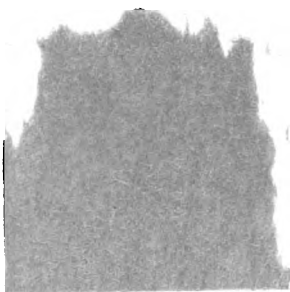
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Maps in BLAC Map
Collection (3 sheets)
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